

<p style="text-align: center;">1</p> <p style="text-align: center;">IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA</p> <p>STATE OF TEXAS, ) Plaintiff, ) VS. ) ERIC H. HOLDER, JR., IN ) HIS OFFICIAL CAPACITY AS ) ATTORNEY GENERAL OF THE ) UNITED STATES, ) Defendant, ) ERIC KENNIE, ET AL., ) Defendant-Intervenors, ) THE TEXAS SATE CONFERENCE ) OF NAACP BRANCHES, ET ) CASE NO. 1:12-CV-00128 AL., ) (RMC-DST-RLW) Defendant-Intervenors, ) Three-Judge Court TEXAS LEAGUE OF YOUNG ) VOTERS EDUCATION FUND, ET ) AL., ) Defendant-Intervenors, ) TEXAS LEGISLATIVE BLACK ) CAUCUS, ET AL., ) Defendant-Intervenors, ) VICTORIA RODRIGUEZ, ET ) AL., ) Defendant-Intervenors. )</p>	<p style="text-align: center;">3</p> <p style="text-align: center;">A P P E A R A N C E S</p> <p>1 2 3 FOR THE PLAINTIFF STATE OF TEXAS: Mr. Adam Aston 4 ATTORNEY GENERAL OF TEXAS Civil Medicaid Fraud Division 5 209 W. 15th Street Austin, Texas 78701 6 adam.aston@oag.state.tx.us 7 8 FOR THE DEFENDANTS ERIC H. HOLDER, ET AL.: Ms. Michelle McLeod 9 U.S. DEPARTMENT OF JUSTICE 1800 G Street, 7254 10 NWB - Room 7202 Washington, DC 20006 11 michelle.mcleod@usdoj.gov 12 13 RODRIGUEZ DEFENDANT-INTERVENORS: Ms. Nina Perales 14 110 Broadway, Suite 300 San Antonio, Texas 78205 15 nperales@maldef.org 16 17 ALSO PRESENT: MR. Luis Figueroa - Legislative Staff Attorney 18 MALDEF 110 Broadway, Suite 300 19 San Antonio, Texas 78205 lfigueroa@maldef.org 20 21 22 23 24 25</p>
<p style="text-align: center;">2</p> <p>1 ***** 2 ORAL DEPOSITION OF 3 GLENN BAYRON 4 JUNE 12, 2012 5 ***** 6 ORAL DEPOSITION OF GLENN BAYRON, produced as a 7 witness at the instance of the Defendants Eric H. Holder, 8 et al., and duly sworn, was taken in the above-styled and 9 numbered cause on Wednesday, June 12, 2012, from 10 12:28 p.m. to 2:23 p.m., before Tamara K. Chapman, CSR in 11 and for the State of Texas, reported by machine shorthand, 12 at the Omni, 9821 Colonnade Boulevard, San Antonio, Texas, 13 pursuant to the Federal Rules of Civil Procedure and the 14 provisions stated on the record or attached hereto. 15 16 17 18 19 20 21 22 23 24 25</p>	<p style="text-align: center;">4</p> <p style="text-align: center;">I N D E X</p> <p>1 2 PAGE 3 4 APPEARANCES..... 2 5 GLENN BAYRON 6 EXAMINATION 7 Examination By Mr. Aston ..... 5 8 CHANGES AND SIGNATURE..... 58 9 SIGNATURE PAGE..... 59 10 REPORTER'S CERTIFICATION..... 61 11 12 13 E X H I B I T S 14 NO. DESCRIPTION PAGE 15 1 Notice 8 (No Bates - 7 pages) 16 2 SB 14 16 (no Bates - 17 pages) 17 3 Defendant-Intervenor Southwest Voter 18 Registration Education Project's 19 Response to Plaintiff's First Request for Production (no Bates - 7 pages) 54 20 21 22 23 24 25</p>

<p style="text-align: center;">5</p> <p>1 GLENN BAYRON, 2 having been first duly sworn, testified as follows: 3 EXAMINATION 4 BY MR. ASTON: 5 Q. Good afternoon. 6 A. Hello. 7 Q. Once again, my name is Adam Aston. I represent 8 the State of Texas. Would you please state and then spell 9 your name for the record. 10 A. Glenn Bayron, G-L-E-N-N B-A-Y-R-O-N. 11 Q. Have you ever been deposed? 12 A. No. 13 Q. Have you ever seen a deposition? 14 A. Just the one I saw just prior to this. 15 Q. Are you suffering from any illness or taking any 16 medication that will affect your ability to provide 17 accurate answers to my questions? 18 A. No. 19 Q. You aware of anything else that might prevent you 20 from accurately answering my questions? 21 A. Okay. 22 Q. Go over a few things like we did for the 23 deposition this morning. Please answer audibly so the 24 reporter can take down your answers. A nod or a head 25 shake cannot be reported. Do you understand?</p>	<p style="text-align: center;">7</p> <p>1 A. Yes. 2 Q. And unless I indicate otherwise, when I use the 3 term "you" or "Mi Familia or "your organization" during 4 the questions in this deposition, that term includes the 5 Mi Familia Vota Education Fund and anyone acting on its 6 behalf. Do you understand? 7 A. Yes. 8 Q. Did you do any preparation for your deposition 9 today? 10 A. Yes. 11 Q. What did you do? 12 A. I met with the attorneys yesterday upon my 13 arrival in San Antonio and prior to that, reviewed some of 14 the materials related to the case that were made available 15 to me. 16 Q. When you say "materials," do you mean the 17 pleadings in this case? 18 A. I'm not exactly sure what the term of the 19 document is. I believe that looks a lot like the 20 document, the one that's next to you there. I believe 21 it's a notice. 22 Q. You said "the document." Did you only review one 23 document? 24 A. No. No, there was an additional document that I 25 believe was a summary of specific answers to questions</p>
<p style="text-align: center;">6</p> <p>1 A. Yes. 2 Q. If you don't understand my question or if you'd 3 like for me to speak slower at any time, please let me 4 know and I will do so. 5 A. Okay. 6 Q. Please wait until I finish my question to answer, 7 and I will try and wait until you finish your answers to 8 ask the next question. Okay? 9 A. Okay. 10 Q. Your lawyer may object to a question. Even if 11 she objects, unless she instructs you not to answer, 12 please do so. 13 A. Okay. 14 Q. Are you represented by counsel today? 15 A. Yes. 16 Q. And who is your counsel? 17 A. Nina Perales. 18 Q. Anyone else? 19 A. Luis Figueroa. 20 Q. And when did that representation begin? 21 A. I guess whenever Mi Familia Vota came on board 22 with the suit. I don't have an exact date. 23 Q. Do you understand that you have been designated 24 to provide testimony on behalf of the Mi Familia Vota 25 Education Fund today?</p>	<p style="text-align: center;">8</p> <p>1 that was submitted to Mi Familia Vota to my boss, Carlos 2 Duarte. 3 Q. Can you spell that name, please? 4 A. C A-R-L-O-S D-U-A-R-T-E. 5 Q. Did you meet with anyone else at Mi Familia in 6 order to prepare for this deposition? 7 A. No. 8 Q. Did you have any e-mail discussions or phone 9 conversations? 10 A. No. 11 (Exhibit 1 was marked.) 12 Q. (BY MR. ASTON) You've been handed what has been 13 marked Exhibit 1. Would you please review it and then 14 we'll discuss it briefly. 15 (Witness reviews document.) 16 Q. (BY MR. ASTON) Are you familiar with this 17 document? 18 A. Yes. 19 Q. And this is the one marked "Notice" -- 20 A. Correct. 21 Q. -- "of Intention to Take Deposition"? 22 A. (Witness nods.) 23 Q. You've been asked -- or I guess Mi Familia has 24 been asked to designate someone to testify as to 11 25 topics. Are you familiar with all 11 topics here?</p>

<p style="text-align: center;">9</p> <p>1 A. Yes.</p> <p>2 Q. And you've been designated to testify as to all</p> <p>3 of the topics?</p> <p>4 A. That is correct.</p> <p>5 Q. And you're prepared to testify --</p> <p>6 A. Yes.</p> <p>7 Q. -- as to all...</p> <p>8 Your preparations to testify as to these topics,</p> <p>9 anything in addition to what we've already discussed?</p> <p>10 A. No.</p> <p>11 Q. Look at Topic 6, please, on Page 2. Topic 6:</p> <p>12 Any policy making or advocacy-related work performed by or</p> <p>13 on behalf of Mi Familia Vota Education Fund regarding</p> <p>14 voter identification.</p> <p>15 A. To my knowledge, Mi Familia Vota Education Fund</p> <p>16 has not engaged in any specific advocacy-related work</p> <p>17 pursuant to this work.</p> <p>18 Q. Not just as to Senate Bill 14 or this current,</p> <p>19 but previously before?</p> <p>20 A. Correct. To my knowledge.</p> <p>21 Q. Does Mi Familia generally engage in</p> <p>22 policy-related activities such as these as to other topics</p> <p>23 perhaps?</p> <p>24 A. The Educational [sic] Fund, because if it's</p> <p>25 501(c)(3) status, is limited in its ability to engage in</p>	<p style="text-align: center;">11</p> <p>1 501(c)(4) element -- branch to the organization as well.</p> <p>2 Q. And what does that branch do?</p> <p>3 A. Currently that -- well, within Texas? Is that</p> <p>4 what you're referring to?</p> <p>5 Q. Yes.</p> <p>6 A. Okay. That branch is currently involved in</p> <p>7 organizing community groups along issues that are of</p> <p>8 importance to those groups and facilitating their</p> <p>9 involvement in the civic engagement process.</p> <p>10 Q. Now, might that include things other than</p> <p>11 election and voting-related --</p> <p>12 A. Yes.</p> <p>13 Q. -- activities.</p> <p>14 Do you know how many employees Mi Familia has?</p> <p>15 A. I believe at this point currently -- again,</p> <p>16 talking about the Texas operation total -- in total, about</p> <p>17 16 employees.</p> <p>18 Q. In Texas?</p> <p>19 A. Uh-huh.</p> <p>20 Q. And what is your role?</p> <p>21 A. I am the state coordinator.</p> <p>22 Q. And what do you do as the state coordinator?</p> <p>23 A. I work directly under the state director in</p> <p>24 managing and overseeing both the (c)(3) and the (c)(4)</p> <p>25 aspects of the organization. And I should probably</p>
<p style="text-align: center;">10</p> <p>1 public policy advocacy. Our mission primarily is related</p> <p>2 to promoting civic -- specific engagement in the Latino</p> <p>3 community through voter registration and information on</p> <p>4 citizenship classes as well as promoting voter</p> <p>5 mobilization.</p> <p>6 Q. Topic 8 on your list: Mi Familia Vota Education</p> <p>7 Fund's election-related activities, including but not</p> <p>8 limited to, driving voters to the polls, assistance with</p> <p>9 mail-in ballots and poll watching.</p> <p>10 Are those the sorts of activities that you're</p> <p>11 referring to?</p> <p>12 A. Among others, yes.</p> <p>13 Q. And the others would be like registration and</p> <p>14 voter education?</p> <p>15 A. Exactly.</p> <p>16 Q. And that would be Topic 7?</p> <p>17 A. Yes.</p> <p>18 Q. A few background questions on the organization</p> <p>19 itself. When was the organization founded?</p> <p>20 A. To be honest with you, I don't know. I believe</p> <p>21 it was in the early 2000s. I've only been with the</p> <p>22 organization since late 2011.</p> <p>23 Q. And the corporate structure of the organization,</p> <p>24 as you mentioned a moment ago, 501(c)(3); is that correct?</p> <p>25 A. That is correct. That is one aspect. There is a</p>	<p style="text-align: center;">12</p> <p>1 clarify that when I say the (c)(4), that I am, by</p> <p>2 definition, not talking about Mi Familia Vota Educational</p> <p>3 Fund.</p> <p>4 I supervise a voter registration coordinator and</p> <p>5 his team of canvass leads and canvassers.</p> <p>6 Q. Now, you mentioned a minute ago the (c)(4)</p> <p>7 portion has a different name. What is that name?</p> <p>8 A. Mi Familia Vota Texas.</p> <p>9 Q. Does the organization rely on volunteers?</p> <p>10 A. Yes.</p> <p>11 Q. Do you know about how many volunteers the</p> <p>12 organization would have in a given year?</p> <p>13 A. Since I've only been with the organization for</p> <p>14 about eight or nine months, I couldn't say in total. I</p> <p>15 know that depending on the activity. Currently, for</p> <p>16 example, we probably work with about 15 or 20 volunteers</p> <p>17 at any given time.</p> <p>18 Q. And what is the organization -- I think at this</p> <p>19 point we're going back to the Education Fund portion --</p> <p>20 A. Right.</p> <p>21 Q. -- their primary activities?</p> <p>22 A. Voter registration, voter education. And we will</p> <p>23 eventually be engaging in a get-out-the-vote. I guess</p> <p>24 "voter mobilization" is the term.</p> <p>25 Q. And where is -- where are they headquartered, the</p>

<p style="text-align: center;">13</p> <p>1 office?</p> <p>2 A. In Houston.</p> <p>3 Q. Is that the only Texas office?</p> <p>4 A. Yes.</p> <p>5 Q. And do they have offices in other states?</p> <p>6 A. Mi Familia Vota has offices in other states.</p> <p>7 Q. Do you know how many states?</p> <p>8 A. Yes.</p> <p>9 Q. How many?</p> <p>10 A. California, Colorado, Nevada, Arizona and</p> <p>11 Florida.</p> <p>12 Q. And does the Texas portion interact significantly</p> <p>13 with the others or are they generally independent?</p> <p>14 A. What do you mean by "significantly"?</p> <p>15 Q. That's a good question.</p> <p>16 Is it fair to say that each state sort of</p> <p>17 operates independently of the others with some supervision</p> <p>18 from maybe a national group?</p> <p>19 A. I believe perhaps "autonomously" is a better word</p> <p>20 than "independently." My boss interacts more with his</p> <p>21 peers among state directors, for example, on a regular</p> <p>22 basis than I would with the -- my peers who were</p> <p>23 coordinators. But I would say there is a regular amount</p> <p>24 of interaction among the state staffs.</p> <p>25 Q. And would you have an idea of how many employees</p>	<p style="text-align: center;">15</p> <p>1 Q. And what about grants from governmental agencies?</p> <p>2 A. I do not believe we receive grants from</p> <p>3 government entities.</p> <p>4 Q. Do you know how much money has been received from</p> <p>5 these private grants --</p> <p>6 A. No.</p> <p>7 Q. -- in the last year?</p> <p>8 A. No, I do not.</p> <p>9 Q. Has the organization made plans to assist voters</p> <p>10 with compliance with Senate Bill 14?</p> <p>11 A. We have -- I have not engaged in any specific</p> <p>12 conversations thus far related to any sort of, quote,</p> <p>13 what-if type scenarios if the passage of the law were to</p> <p>14 be permanent.</p> <p>15 Q. Are you aware of anyone else at Mi Familia making</p> <p>16 those plans?</p> <p>17 A. No.</p> <p>18 Q. So then is it fair to also say that no plans have</p> <p>19 been implemented, to your knowledge?</p> <p>20 A. To my knowledge, no plans have been implemented.</p> <p>21 Q. If it is implemented, will the organization</p> <p>22 educate voters about the requirements of Senate Bill 14?</p> <p>23 A. With serious reservations.</p> <p>24 Q. Why the reservations?</p> <p>25 A. Because the organization holds that the intent</p>
<p style="text-align: center;">14</p> <p>1 the entire organization would have?</p> <p>2 A. I could not guess. I do not know.</p> <p>3 Q. Would you consider Texas to be one of the larger</p> <p>4 staffs?</p> <p>5 A. I don't know.</p> <p>6 Q. Is Mi Familia a membership organization?</p> <p>7 A. No.</p> <p>8 Q. So they do not have individual members?</p> <p>9 A. Correct.</p> <p>10 Q. What is the annual budget for Mi Familia Vota</p> <p>11 here in Texas?</p> <p>12 A. I can only speak to the annual budget of</p> <p>13 Educational Fund. To my knowledge, I believe it is</p> <p>14 approximately \$700,000.</p> <p>15 Q. And that would be the Texas portion --</p> <p>16 A. Correct.</p> <p>17 Q. -- of the Education Fund?</p> <p>18 A. Yes. That would be the Mi Familia Vota</p> <p>19 Educational Fund budget.</p> <p>20 Q. How does the organization raise money?</p> <p>21 A. Through foundation grants and -- well, actually</p> <p>22 foundation grants are the only ones I am specifically</p> <p>23 aware of. I believe we may receive funding from SEIU, but</p> <p>24 I'm not sure. We do not have individual donor bases, to</p> <p>25 my knowledge.</p>	<p style="text-align: center;">16</p> <p>1 and impact of this bill are both detrimental and</p> <p>2 counterproductive to Latino citizen slash civic</p> <p>3 participation.</p> <p>4 Q. What will the organization do, how will they</p> <p>5 conduct that education?</p> <p>6 A. We will continue our efforts to inform eligible</p> <p>7 voters within the Latino community as to where they can</p> <p>8 vote, if necessary, how the process works in terms of</p> <p>9 registering to vote, and provide information on polling</p> <p>10 locations and rules and regulations.</p> <p>11 Q. Will the organization help voters obtain either</p> <p>12 the identification required or the underlying documents</p> <p>13 necessary to obtain the identification required by Senate</p> <p>14 Bill 14?</p> <p>15 A. We have not -- or I have not been involved in any</p> <p>16 conversations thus far that have talked about specific</p> <p>17 steps in helping people obtain identification documents.</p> <p>18 (Exhibit 2 was marked.)</p> <p>19 Q. (BY MR. ASTON) You have been given what has been</p> <p>20 marked as Exhibit No. 2. Would you please review it and</p> <p>21 we'll discuss it briefly.</p> <p>22 (Witness reviews document.)</p> <p>23 Q. (BY MR. ASTON) Are you familiar with this</p> <p>24 document?</p> <p>25 A. Yes.</p>

<p style="text-align: center;">21</p> <p>1 citizenship certificate and a U.S. passport. You agree</p> <p>2 that those forms of identification are acceptable forms</p> <p>3 under Senate Bill 14, correct?</p> <p>4 A. I have never seen in my personal experience a</p> <p>5 U.S. military identification card. The only type of</p> <p>6 citizenship certificate that I'm familiar with are those</p> <p>7 that are provided in the context of naturalization</p> <p>8 ceremonies, and I'm a holder of a U.S. passport. Without</p> <p>9 actually having seen the first two, going on the</p> <p>10 assumption that they are legitimate documents, my answer</p> <p>11 would be yes.</p> <p>12 Q. You mentioned earlier that Mi Familia does not</p> <p>13 have members but has employees and staff. Are you aware</p> <p>14 of any of the employees or staff at your organization that</p> <p>15 lack a photo ID required by Senate Bill 14 to vote?</p> <p>16 A. Mi Familia Vota employees are not only U.S.</p> <p>17 citizens but legal residents of the United States.</p> <p>18 Q. In those 16?</p> <p>19 A. Correct.</p> <p>20 Q. Okay. Of those who are citizens and registered</p> <p>21 to vote, are you aware of any of the staff or employees</p> <p>22 that are registered but who do not have one of the photo</p> <p>23 ID documents on that list?</p> <p>24 MS. PERALES: You can answer if you know.</p> <p>25 A. I do not know of any that do not, but -- that, to</p>	<p style="text-align: center;">23</p> <p>1 A. No.</p> <p>2 Q. You mentioned constituents. I guess that would</p> <p>3 be distinct from members. But who does Mi Familia believe</p> <p>4 to be its constituents?</p> <p>5 A. The Latino community. We are -- our mission is</p> <p>6 to promote civic engagement within the Latino community.</p> <p>7 Q. Throughout --</p> <p>8 A. In --</p> <p>9 Q. -- the state in its entirety?</p> <p>10 A. In -- well, currently we're operating only within</p> <p>11 the confines of Harris County.</p> <p>12 Q. But do you consider that your constituents are</p> <p>13 the Latino and Hispanic community in Harris County or in</p> <p>14 the state of Texas or something different?</p> <p>15 A. Specifically Harris County. But conceptually,</p> <p>16 throughout the state of Texas.</p> <p>17 Q. Does Mi Familia register voters?</p> <p>18 A. Yes.</p> <p>19 Q. What percentage of the budget -- the annual</p> <p>20 budget is dedicated to voter registration?</p> <p>21 A. The (c)(3) budget as it stands now is dedicated</p> <p>22 exclusively to our voter registration efforts at this</p> <p>23 time.</p> <p>24 Q. Does Mi Familia conduct voter education</p> <p>25 activities?</p>
<p style="text-align: center;">22</p> <p>1 me, is, you know, I -- I don't -- I haven't seen all of</p> <p>2 their IDs.</p> <p>3 Q. (BY MR. ASTON) Fair enough.</p> <p>4 Does Mi Familia represent anyone else besides</p> <p>5 the organization in this litigation?</p> <p>6 A. Can you repeat -- can you expand on that? I'm</p> <p>7 not exactly sure what I you mean by "represent."</p> <p>8 Q. Mi Familia, as an organization, has entered this</p> <p>9 lawsuit and -- on behalf of itself.</p> <p>10 A. Uh-huh.</p> <p>11 Q. Does it purport to be entering this lawsuit on</p> <p>12 behalf of anyone else?</p> <p>13 A. To my knowledge, no.</p> <p>14 Q. Let's talk about Senate Bill 14. And if the</p> <p>15 Court preclears that law, how does Mi Familia believe the</p> <p>16 implementation of Senate Bill 14 will harm Mi Familia?</p> <p>17 A. First and foremost, we are of the position that</p> <p>18 our constituents, as eligible voters within the Latino</p> <p>19 community, would be harmed; that the process and ability</p> <p>20 for them to exercise their legal right to vote would be</p> <p>21 hindered and obstructed and, therefore, by definition, our</p> <p>22 work, which is designed to facilitate and help enable them</p> <p>23 to exercise their voting rights more easily, would be</p> <p>24 burdened and obstructed.</p> <p>25 Q. Anything else?</p>	<p style="text-align: center;">24</p> <p>1 A. Yes. And I should clarify that when I speak of</p> <p>2 voter registration activities, I am including within that,</p> <p>3 from a programmatic perspective, that voter education is</p> <p>4 part of voter registration.</p> <p>5 Q. So is it fair to say your organization does not</p> <p>6 break down between registration and education activities?</p> <p>7 A. We view voter education as part of the</p> <p>8 registration process, as well as part of voter</p> <p>9 mobilization process.</p> <p>10 Q. That would include getting people to vote and</p> <p>11 taking them to the polls?</p> <p>12 A. If requested to do so.</p> <p>13 Q. And so you would say all of those things you</p> <p>14 would consider to be one -- they're not distinct functions</p> <p>15 in your organization's view?</p> <p>16 A. I would characterize them as complementary</p> <p>17 functions.</p> <p>18 Q. And other than -- well, would you say that for</p> <p>19 those three basic functions, the registration, education,</p> <p>20 and mobilization, that constitutes, combined, what</p> <p>21 percentage of the budget?</p> <p>22 A. Well, factoring in my staff time and that of the</p> <p>23 state directors, that is pretty much 100 percent of what</p> <p>24 we are doing in (c)(3) -- in the educational fund side.</p> <p>25 That is what we do.</p>

<p style="text-align: center;">25</p> <p>1 Q. Has Mi Familia hosted any speakers about voter ID</p> <p>2 legislation, either SB 14 or previous legislation?</p> <p>3 A. No, not to my knowledge.</p> <p>4 Q. Has your organization produced any reports on</p> <p>5 voter ID legislation?</p> <p>6 A. No.</p> <p>7 Q. Has it conducted any surveys?</p> <p>8 A. No.</p> <p>9 Q. Conducted any studies?</p> <p>10 A. No.</p> <p>11 Q. And again, just to be clear, that's not just for</p> <p>12 Senate Bill 14, but that's previous voter ID legislation.</p> <p>13 A. No. To my knowledge, no.</p> <p>14 Q. Did your organization provide its staff with any</p> <p>15 materials on voter ID during the 2011 legislative session?</p> <p>16 A. Can you repeat that question again? I'm sorry.</p> <p>17 Q. Sure. Did your organization provide its staff</p> <p>18 with any materials, written documents, regarding voter ID</p> <p>19 during the 2011 legislative session?</p> <p>20 A. I came on board to Mi Familia Vota in my current</p> <p>21 capacity in February of 2012. Any communications prior to</p> <p>22 that related to this or any other issue before the Texas</p> <p>23 legislature, I am unaware of.</p> <p>24 Q. Did Mi Familia meet with any interest groups</p> <p>25 during the legislative session or before regarding Senate</p>	<p style="text-align: center;">27</p> <p>1 discuss issues pertaining to voter registration, the</p> <p>2 empowerment of our constituencies. And where our missions</p> <p>3 coincide, we collaborate in discussions. But I do not</p> <p>4 know of any specific meetings or strategy sessions of this</p> <p>5 nature.</p> <p>6 Q. And to your knowledge, no documents were traded</p> <p>7 back and forth? Or no written materials?</p> <p>8 A. In recent months we have received updates from</p> <p>9 other organizations as far as the status of some of this</p> <p>10 legislation. But it has been distributed in the context</p> <p>11 of casual information exchange with no specific strategies</p> <p>12 that I have been involved in.</p> <p>13 Q. When you say "in recent months," are you</p> <p>14 referring to maybe calendar year 2012?</p> <p>15 A. During my tenure with the organization.</p> <p>16 Q. Which began in February?</p> <p>17 A. In my current position, yes.</p> <p>18 Q. Mi Familia Vota Education Fund intervened with</p> <p>19 other parties; is that correct?</p> <p>20 A. I don't know what you mean by "intervene" -- oh,</p> <p>21 do you mean in the context of this --</p> <p>22 Q. In this litigation, yes, sir.</p> <p>23 A. My understanding is that the Mexican American</p> <p>24 Legal Defense and Educational Fund is representing both</p> <p>25 Mi Familia Vota and the Southwest Texas Voter Education</p>
<p style="text-align: center;">26</p> <p>1 Bill 14?</p> <p>2 A. Can you clarify the parameters of what you are</p> <p>3 calling the 2011 legislative session?</p> <p>4 Q. The session would have been from January until, I</p> <p>5 believe, June when they left. And before I would</p> <p>6 certainly include the months certainly leading up to,</p> <p>7 during the bill filing, and then the consideration.</p> <p>8 A. To my knowledge, no.</p> <p>9 Q. To your knowledge, has the organization met with</p> <p>10 any of those groups about voter ID legislation in previous</p> <p>11 years?</p> <p>12 A. Prior to 2011?</p> <p>13 Q. In earlier legislative sessions when other bills</p> <p>14 were considered.</p> <p>15 A. I do not know. My understanding is that</p> <p>16 Mi Familia Vota Educational Fund is a relatively young</p> <p>17 organization in the state of Texas. So I do not think so,</p> <p>18 no.</p> <p>19 Q. Did any groups provide your organization's staff</p> <p>20 with written materials or documents regarding voter ID</p> <p>21 legislation, say between the legislative session, during</p> <p>22 the session, and now?</p> <p>23 A. Mi Familia Vota Educational Fund interacts</p> <p>24 regularly with a variety of other (c)(3) organizations</p> <p>25 within the state of Texas that have similar missions. We</p>	<p style="text-align: center;">28</p> <p>1 Project. This is my understanding.</p> <p>2 Q. Has Mi Familia met with Southwest Voter</p> <p>3 Registration Education Project?</p> <p>4 A. Not to my knowledge, no.</p> <p>5 Q. Have they met with the two individual women?</p> <p>6 A. No.</p> <p>7 Q. So you're not aware of any conversations or</p> <p>8 e-mails or exchange of documents between Southwest Voter</p> <p>9 and Mi Familia with regard to Senate Bill 14 or this</p> <p>10 litigation?</p> <p>11 A. Correct.</p> <p>12 THE WITNESS: Do you think we might be able</p> <p>13 to take a five-minute restroom break?</p> <p>14 MR. ASTON: We certainly can.</p> <p>15 THE WITNESS: Okay.</p> <p>16 Q. (BY MR. ASTON) I do have one more question on</p> <p>17 this section, if we could.</p> <p>18 A. Sure.</p> <p>19 Q. The claims of Southwest Voter and Mi Familia, to</p> <p>20 your knowledge, are they based upon the same legal and</p> <p>21 factual contentions?</p> <p>22 A. We challenge the intent of this bill. We believe</p> <p>23 it is detrimental of the voter interests of the Latino</p> <p>24 community and other minority communities. We see its</p> <p>25 impact as very negative for eligible voters in this state.</p>

<p style="text-align: center;">29</p> <p>1 Q. But are you aware of any of the legal or factual</p> <p>2 contentions that you're making -- your organization is</p> <p>3 making that are independent from those of Southwest Voter?</p> <p>4 MS. PERALES: You can answer, if you know.</p> <p>5 A. I do not know of anything that specifically would</p> <p>6 distinguish us from the position in the Southwest Voter</p> <p>7 Education Project.</p> <p>8 MR. ASTON: Can we go off the record?</p> <p>9 (Break.)</p> <p>10 Q. (BY MR. ASTON) Did you personally speak with</p> <p>11 anyone at the Department of Justice about Senate Bill 14?</p> <p>12 A. No.</p> <p>13 Q. Did Mi Familia speak, to your knowledge, with the</p> <p>14 Department of Justice about Senate Bill 14?</p> <p>15 A. To my knowledge, no.</p> <p>16 Q. And that would include during the legislative</p> <p>17 session, afterwards during the preclearance proceedings,</p> <p>18 and during this litigation?</p> <p>19 A. Correct.</p> <p>20 Q. And that would include phone conversations,</p> <p>21 e-mails and letter, and any other correspondence?</p> <p>22 A. To my knowledge, correct.</p> <p>23 Q. Does Mi Familia contend that Senate Bill 14 will</p> <p>24 have the effect of denying or abridging Hispanics' and</p> <p>25 Latinos' right to vote on account of race, color, or</p>	<p style="text-align: center;">31</p> <p>1 community in general has a lower likelihood of meeting</p> <p>2 these newer, more stringent requirements for voting, and</p> <p>3 that, therefore, by definition, it is a violation of the</p> <p>4 Voting Rights Act.</p> <p>5 Q. Is it possible that Latinos have an ID such as a</p> <p>6 passport at a greater or higher rate than other Texas</p> <p>7 citizens?</p> <p>8 A. I have no empirical information regarding the</p> <p>9 percentage of Latinos who hold passports vis-à-vis other</p> <p>10 ethnic groups.</p> <p>11 Given what is required to obtain a passport,</p> <p>12 first and foremost, cost. In addition to that, limited</p> <p>13 number of U.S. passport agencies in the state of Texas,</p> <p>14 and the need for, at times, interurban transportation to</p> <p>15 obtain one, I would think that it is an additional burden</p> <p>16 on an identifiable percentage of the Latino community. I</p> <p>17 have no specific numbers in mind.</p> <p>18 Q. I just want to make sure you have an opportunity</p> <p>19 to provide all of the answers that you wish to provide.</p> <p>20 Is that the entire version of your organization's evidence</p> <p>21 that Senate Bill 14 will have the effect of denying or</p> <p>22 abridging Hispanics and Latinos' right to vote?</p> <p>23 A. I think that when we look at not only issues of</p> <p>24 effect, but given how the law or, rather, the bill came</p> <p>25 into being, the historical framework of voting vis-à-vis</p>
<p style="text-align: center;">30</p> <p>1 membership in a language minority group?</p> <p>2 A. Yes, this is our contention.</p> <p>3 Q. What is the basis for that contention?</p> <p>4 A. The historical framework of minority voting in</p> <p>5 the State of Texas; the demonstrated relative disadvantage</p> <p>6 that the Latino community has in being able to produce the</p> <p>7 identification documents outlined in the bill; various</p> <p>8 structural limitations, including cost,</p> <p>9 location/accessibility, to obtaining such documents.</p> <p>10 Q. Anything else?</p> <p>11 A. Again, we feel that it is the intent of a</p> <p>12 majority of Texas legislators to curtail and impede the</p> <p>13 full voting power of the Latino and other minority</p> <p>14 communities through passage of this bill. We believe that</p> <p>15 this presents added undue burden and obstruction to the</p> <p>16 free exercise of eligible voting among Latinos and our</p> <p>17 ability as an organization to complete our mission.</p> <p>18 Q. You mentioned a moment ago something to the</p> <p>19 effect that you believe Hispanics and Latinos might be</p> <p>20 less likely to have photo IDs as listed in Senate Bill 14.</p> <p>21 Is it your contention that they are less likely than</p> <p>22 others to have each of those or some of those photo IDs?</p> <p>23 A. I cannot speak to the specific statistical</p> <p>24 percentages for each form of identification. But overall,</p> <p>25 I believe it has been demonstrated that the Latino</p>	<p style="text-align: center;">32</p> <p>1 minority voting in Texas among other states governed by</p> <p>2 the Voting Rights Act, the timing of the legislation,</p> <p>3 given the larger national discussion of voting and voter</p> <p>4 fraud that is particularly targeted to the Latino</p> <p>5 community presumptively, I feel that it is a reasonable</p> <p>6 connection to think that there is sufficient evidence of</p> <p>7 purposeful intent to disempower the Latino voting group.</p> <p>8 Q. We will definitely talk about purpose in a</p> <p>9 minutes. But again, I don't want to cut you off short.</p> <p>10 As far as effect goes, is there anything else</p> <p>11 that you wanted to add?</p> <p>12 A. No.</p> <p>13 Q. Does Mi Familia contend that Senate Bill 14 will</p> <p>14 have the effect of denying or abridging African-Americans'</p> <p>15 right to vote on account of race, color or membership in a</p> <p>16 language minority group?</p> <p>17 A. We are not empowered to speak for the</p> <p>18 African-American community; however, we feel that many of</p> <p>19 the barriers that are faced by Latinos in this bill are</p> <p>20 similarly faced by African Americans.</p> <p>21 Q. What is the basis for that contention? Is it</p> <p>22 everything you've said before, or are there other things</p> <p>23 you'd like to add?</p> <p>24 A. I think everything's been said. If I had to</p> <p>25 emphasize one concept, it would be history.</p>

<p style="text-align: center;">33</p> <p>1 Q. Does Mi Familia contend that Senate Bill 14 will</p> <p>2 have the effect of denying or abridging Asian-Americans'</p> <p>3 right to vote on account of race, color or membership in a</p> <p>4 language minority group?</p> <p>5 A. Again, I cannot speak to specific issues related</p> <p>6 to the Asian community. Our focus is working with the</p> <p>7 Latino community in representing the legitimate interests</p> <p>8 of the Latino community.</p> <p>9 Q. Has Mi Familia conducted any studies or any</p> <p>10 surveys on the effect of Senate Bill 14 on minority</p> <p>11 voters?</p> <p>12 A. No.</p> <p>13 Q. Is Mi Familia familiar with polls regarding</p> <p>14 support for voter ID legislation?</p> <p>15 A. I am not specifically familiar with individual</p> <p>16 polls. I have not seen any specific reports of that</p> <p>17 nature.</p> <p>18 Q. Is your organization aware of polls showing that</p> <p>19 the majority of Texans support a photographic ID</p> <p>20 requirement to vote regardless of their political</p> <p>21 affiliation?</p> <p>22 A. Again, I have not seen any specific polling data</p> <p>23 related to that question; however, I will say that the</p> <p>24 popularity of the legislation is irrelevant, as far as we</p> <p>25 view it.</p>	<p style="text-align: center;">35</p> <p>1 A. In the context of indigent Latinos, we view that</p> <p>2 this bill would be a detriment to their ability to</p> <p>3 exercise the legitimate right to vote.</p> <p>4 Q. Do you believe that disabled voters are more</p> <p>5 likely than the average voter to lack a form of</p> <p>6 identification required by Senate Bill 14?</p> <p>7 A. I do not know.</p> <p>8 Q. Do you believe that rural voters are more likely</p> <p>9 than the average voter to lack a form of identification</p> <p>10 required by Senate Bill 14?</p> <p>11 A. Given what I know about the 70-some-odd counties</p> <p>12 within the State of Texas, assuming a good portion of them</p> <p>13 are rural in nature that do not have departments of public</p> <p>14 safety as offices that would be issuers of some of the IDs</p> <p>15 in question here, I would think that, yes, the rural</p> <p>16 population is at a specific disadvantage. And within that</p> <p>17 context, the Latino rural population is at an even larger</p> <p>18 disadvantage.</p> <p>19 Q. Do you believe that young voters are more likely</p> <p>20 than the average voter to lack a form of identification</p> <p>21 required by Senate Bill 14?</p> <p>22 A. I think that particularly since student IDs have</p> <p>23 been specifically excluded from the list of eligible</p> <p>24 acceptable forms of identification in this bill, that that</p> <p>25 would put youth at a higher rate of burden and being</p>
<p style="text-align: center;">34</p> <p>1 Q. Are you aware of any polls showing that the</p> <p>2 majority of Texans support a photographic ID requirement</p> <p>3 to vote regardless of their race?</p> <p>4 A. Can you repeat the question, please?</p> <p>5 Q. Sure. Are you aware of any polls showing that</p> <p>6 the majority of Texans support a photographic ID</p> <p>7 requirement to vote regardless of their race?</p> <p>8 A. No.</p> <p>9 Q. Are you aware of any polls showing that the</p> <p>10 majority of Texans support a photographic ID requirement</p> <p>11 to vote, regardless of their membership in a language</p> <p>12 minority?</p> <p>13 A. No.</p> <p>14 Q. Does Mi Familia believe that elderly voters are</p> <p>15 more likely than the average voter to lack a form of</p> <p>16 identification required by Senate Bill 14?</p> <p>17 A. I believe that in the context that I've outlined,</p> <p>18 meaning as it impacts the Latino community, the barriers</p> <p>19 that I have referenced are present for the elderly</p> <p>20 community within the Latino community.</p> <p>21 Beyond that, I am not prepared to speak on a</p> <p>22 larger scale about the impact on the elderly.</p> <p>23 Q. Does Mi Familia believe that indigent voters are</p> <p>24 more likely than the average voter to lack a form of</p> <p>25 identification required by Senate Bill 14?</p>	<p style="text-align: center;">36</p> <p>1 prevented from voting.</p> <p>2 Again, specifically as it pertains to the Latino</p> <p>3 community, that that burden is even more present.</p> <p>4 Q. And now, we're going to shift from currently</p> <p>5 having to obtaining the IDs. Do you believe that indigent</p> <p>6 voters are less likely than nonindigent voters to be able</p> <p>7 to obtain the underlying documents and then to obtain a</p> <p>8 form of identification required under Senate Bill 14?</p> <p>9 A. Can you repeat the question again? I'm sorry.</p> <p>10 MR. ASTON: Sure.</p> <p>11 Could you read it back?</p> <p>12 (The requested material was read.)</p> <p>13 A. I would think that indigent voters are presented</p> <p>14 with a wide variety of challenges, but I cannot pretend to</p> <p>15 be able to enumerate them.</p> <p>16 Q. (BY MR. ASTON) What about the elderly, do you</p> <p>17 believe that they are less likely than the nonelderly to</p> <p>18 be able to obtain the documents and then an ID?</p> <p>19 A. I feel like we've -- that this question sounds</p> <p>20 like a question you've asked previously or is it just --</p> <p>21 is there a specific wording maybe that's maybe different?</p> <p>22 Have we not covered how the elderly perhaps are impacted</p> <p>23 or what I perceive is how the elderly are impacted in this</p> <p>24 bill? I want to be able to answer your question</p> <p>25 completely, but it's -- I'm -- it's starting to feel like</p>

<p style="text-align: center;">37</p> <p>1 maybe I'm mishearing things, but I've heard this question</p> <p>2 before.</p> <p>3 Q. I don't believe I've asked the question before.</p> <p>4 You may have -- you've certainly discussed the elderly in</p> <p>5 other contexts. But I guess the question is, do you</p> <p>6 believe that the elderly are less likely than nonelderly</p> <p>7 to be able to obtain the documents they would need and</p> <p>8 then to obtain --</p> <p>9 A. I don't know.</p> <p>10 Q. -- the photo ID?</p> <p>11 A. I don't know.</p> <p>12 Q. What about rural voters?</p> <p>13 A. I think my previous statement about limitations</p> <p>14 in the rural area, particularly those given the absence of</p> <p>15 the issuing offices --</p> <p>16 Q. You're referring to the DPS office?</p> <p>17 A. Correct.</p> <p>18 -- present challenges. And given the good</p> <p>19 number of Latinos who live in the rural area, I think the</p> <p>20 challenges are presented to them specifically.</p> <p>21 Q. Okay. Finally, young voters. Do you believe</p> <p>22 that they are less likely than non-young voters to be able</p> <p>23 to obtain the underlying documents and then to obtain a</p> <p>24 photo ID?</p> <p>25 A. I think I can say with some certainty that in the</p>	<p style="text-align: center;">39</p> <p>1 A. I don't recall.</p> <p>2 Q. Can Mi Familia identify any Texas registered</p> <p>3 voter who does not currently have one of the types of</p> <p>4 photo ID required by Senate Bill 14?</p> <p>5 A. No.</p> <p>6 Q. Does Mi Familia know how many Texas registered</p> <p>7 voters lack the documents that would be necessary to</p> <p>8 obtain a state-issued photo ID?</p> <p>9 A. Can you repeat that, please.</p> <p>10 MR. ASTON: Would you read it back, please.</p> <p>11 (The requested material was read.)</p> <p>12 A. I don't have a specific number in my head, no.</p> <p>13 Q. (BY MR. ASTON) Can Mi Familia identify any Texas</p> <p>14 registered voter who does not have the documents necessary</p> <p>15 to get a state-issued photo ID?</p> <p>16 A. No.</p> <p>17 Q. Has Mi Familia done any studies of photo ID</p> <p>18 possession by Texas registered voters?</p> <p>19 A. No.</p> <p>20 Q. Has Mi Familia conducted any surveys of photo ID</p> <p>21 possession by Texas registered voters?</p> <p>22 A. No.</p> <p>23 Q. You mentioned at the beginning that Mi Familia</p> <p>24 Texas is affiliated -- or not affiliated, perhaps, but</p> <p>25 there are other states in which Mi Familia overall --</p>
<p style="text-align: center;">38</p> <p>1 Latino, young eligible voters are at a disadvantage in</p> <p>2 terms of as it relates to what's proposed in this bill.</p> <p>3 Q. Specifically as to obtaining the documents</p> <p>4 necessary and then obtaining an ID?</p> <p>5 A. You say the documents necessary and then</p> <p>6 obtaining the ID as if they are two different --</p> <p>7 Q. Well, for example, obtaining the birth</p> <p>8 certificate that you would then use to obtain the photo</p> <p>9 ID.</p> <p>10 A. I don't know.</p> <p>11 Q. Does Mi Familia know how many Texas registered</p> <p>12 voters lack one of the forms of photo ID that is required</p> <p>13 by Senate Bill 14?</p> <p>14 A. I recall seeing some data about particularly the</p> <p>15 percentage of Latinos versus the larger population. And I</p> <p>16 seem to recall that Latinos do not have the identification</p> <p>17 at a higher percentage than other groups.</p> <p>18 Q. Do you know what information you're referring to</p> <p>19 when you say you've seen some information?</p> <p>20 A. I can't -- I don't remember the specific report.</p> <p>21 I want to say it may be the information that was produced</p> <p>22 leading up to -- or actually, no. I believe it might have</p> <p>23 been a newspaper article, but I don't recall.</p> <p>24 Q. Do you know if that information discussed or</p> <p>25 included all types of photo ID listed by Senate Bill 14?</p>	<p style="text-align: center;">40</p> <p>1 A. Yes.</p> <p>2 Q. -- operates?</p> <p>3 A. Yes.</p> <p>4 Q. Is Georgia one of those states?</p> <p>5 A. No.</p> <p>6 Q. Is Indiana one of those states?</p> <p>7 A. No.</p> <p>8 Q. Is Mi Familia aware that both of those states</p> <p>9 have photo identification laws currently in place?</p> <p>10 A. We are aware. I don't have any specific details</p> <p>11 as to the nature of those laws.</p> <p>12 Q. But Mi Familia is aware that there are other</p> <p>13 states that have photo identification requirements to</p> <p>14 vote?</p> <p>15 A. Yes.</p> <p>16 Q. That have -- that are in place currently?</p> <p>17 A. Yes.</p> <p>18 Q. Let's talk for a few minutes about purpose. Does</p> <p>19 Mi Familia contend that Senate Bill 14 was enacted with a</p> <p>20 discriminatory purpose?</p> <p>21 A. Yes.</p> <p>22 Q. What is the basis for that contention?</p> <p>23 A. I believe I outlined several of the points in a</p> <p>24 related question earlier, but I will recall the main</p> <p>25 points.</p>

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1 Q. Before you do, you're referring to your answer to  
2 the, I believe, initial question, does Mi Familia contend  
3 that Senate Bill 14 was enacted -- will have a  
4 discriminatory effect.

5 A. Yes.

6 Q. That answers what you're referring to?

7 A. Yes. But just to be on the safe side, I want to  
8 make sure that I restate for purposes of clarity.

9 First and foremost, the historical framework  
10 that put Texas under the jurisdiction of the Voting Rights  
11 Act and the National Voter Registration Act.  
12 Subsequently, the manner in which the legislation evolved  
13 through both Houses of the Texas State Legislature in  
14 which any and all attempts among minority legislators to  
15 submit amendments or other recommended changes to the  
16 legislation were rejected.

17 The focus on a supposed crisis of voter fraud  
18 that had has yet to be demonstrated by the authors of this  
19 bill.

20 The focus on a supposed crisis of voter  
21 impersonation that has yet to be demonstrated by the  
22 authors of this bill and the supporters of this bill.  
23 The correlation between the timing of its evolution and  
24 other national political dialogues in other states related  
25 to voter identification, particularly as they impact the

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1 Latino community.

2 And the indisputable importance of the fact that  
3 we're about to embark on a presidential election.

4 Q. I want to be absolutely clear that we got all of  
5 that.

6 MR. ASTON: Would you mind reading it back  
7 to make sure that he's satisfied that he didn't leave  
8 anything out.

9 (The requested material was read.)

10 Q. (BY MR. ASTON) That covers it?

11 A. Yes.

12 Q. Okay. First you discussed the history that got  
13 us within the Voting Rights Act. How does -- we're all  
14 aware of the history, but how is it that -- how is it that  
15 Mi Familia contends -- what are the contentions -- that  
16 what happened long ago in the past continues to inform  
17 what the legislature does today?

18 A. I think the one similarity that comes to mind is  
19 that people who are otherwise eligible to vote are being  
20 presented with undue and unnecessary burdens to do so.  
21 That's the best and simplest way I can draw that  
22 correlation.

23 Q. You mentioned minority amendments.

24 A. (Witness nods.)

25 Q. Is it your contention that every amendment

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1 offered by a member of the legislature who was a member of  
2 a minority group was rejected?

3 A. I have read anecdotally that that is the case. I  
4 cannot name specific legislators nor can I name specific  
5 amendments.

6 Q. You mentioned how the bill evolved through both  
7 Houses. I think you followed that with the minority  
8 amendment discussion. Is there anything else about how  
9 the bill evolved through the Houses that Mi Familia  
10 contends constituted discriminatory purpose?

11 A. I have no specific information to suggest  
12 additional items related to that.

13 Q. The last one, national political dialogue. What  
14 are you referring to?

15 A. I'm drawing a connection to what we see happening  
16 in other states as far as voter ID laws being proposed in  
17 areas of the country where there are high percentages of  
18 Latino voters and where the issue of Latino eligibility to  
19 participate in the voting process appears to be put on the  
20 defensive. Without demonstrating cause.

21 Q. Is there anything else, before we move on to a  
22 different topic, that you would like to add to your  
23 contention as to the discriminatory purpose that  
24 Mi Familia believes underlies Senate Bill 14?

25 A. No.

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1 Q. Does Mi Familia contend that preventing voter  
2 fraud was not a purpose of Senate Bill 14?

3 A. We challenge the assertion that voter fraud  
4 exists on any sizable, significant or otherwise noticeable  
5 level at all, absent any proof to the contrary.

6 Q. Is it your contention that the members of the  
7 legislature could not have thought preventing voter fraud  
8 was one of the purposes of this bill?

9 A. Again, I struggle with the invocation of the term  
10 "voter fraud" in this conversation given the absence of  
11 demonstrable data to show that it is even an issue.

12 Q. Do you contend that the Texas legislature  
13 intended to harm poor people by passing Senate Bill 14?

14 A. I do not see anything in this bill that  
15 demonstrates that they are representing the interest --  
16 interests, rather, of poor people.

17 Q. I think that's at least slightly different. Do  
18 you believe that they intended to harm poor people when  
19 they passed the bill?

20 A. I can't speak to what is in the individual hearts  
21 and minds of every legislator who voted in favor of this  
22 bill. I have not seen anything to indicate that they are  
23 taking into consideration the impact on a wide number of  
24 citizens -- or, rather, a wide cross-section of citizens,  
25 including poor people, as far as their ability to exercise

<p style="text-align: center;">45</p> <p>1 the right to vote.</p> <p>2 Perhaps it depends on how you define "harm."</p> <p>3 Q. Does Mi Familia contend that the Texas</p> <p>4 legislature intended to harm young people by passing</p> <p>5 Senate Bill 14?</p> <p>6 A. Again, insomuch as a -- what I would call a</p> <p>7 blatant disregard for the importance of preserving the</p> <p>8 civil rights of young people, particularly Latinos.</p> <p>9 Q. Does Mi Familia contend that the Texas</p> <p>10 legislature intended to harm elderly people by passing</p> <p>11 Senate Bill 14?</p> <p>12 A. I think my answer is probably the same.</p> <p>13 Q. Does Mi Familia contend that the Texas</p> <p>14 legislature intended to harm rural voters in passing</p> <p>15 Senate Bill 14?</p> <p>16 A. Again, in the disregard over impact? Yes.</p> <p>17 Q. And does Mi Familia contend that the Texas</p> <p>18 legislature intended to harm urban voters by passing</p> <p>19 Senate Bill 14?</p> <p>20 A. I think particularly in the context of limiting</p> <p>21 the legitimate voting rights of Latinos and other minority</p> <p>22 groups who tend to be overrepresented in urban areas, yes.</p> <p>23 Q. I just want to make clear that I have it right.</p> <p>24 As to poor, young, elderly and rural, you contend that it</p> <p>25 was a disregard for their interests?</p>	<p style="text-align: center;">47</p> <p>1 Q. (BY MR. ASTON) Does Mi Familia support the idea</p> <p>2 that one should have to register to vote?</p> <p>3 A. Yes.</p> <p>4 Q. And does the organization support the idea to</p> <p>5 make sure that those who show up to vote are registered?</p> <p>6 A. Yes. We believe that there are already laws in</p> <p>7 place to ensure that.</p> <p>8 Q. And should Texas make sure that when someone</p> <p>9 shows up to vote, he or she is who he or she says he or</p> <p>10 she is?</p> <p>11 A. Yes. And, again, we believe that there are</p> <p>12 already laws in place to ensure that.</p> <p>13 (Brief disturbance.)</p> <p>14 (Discussion off the record.)</p> <p>15 Q. (BY MR. ASTON) Do you know how many other states</p> <p>16 have photo ID requirements in place at this time?</p> <p>17 A. No.</p> <p>18 Q. Are you aware that the United States Supreme</p> <p>19 Court considered Indiana's photo ID law in a case called</p> <p>20 Crawford versus Marion County Election Board?</p> <p>21 A. I am not aware of the specifics of that case.</p> <p>22 Q. But you're aware that it exists?</p> <p>23 A. Only insofar that you referenced Indiana's voter</p> <p>24 ID law some time ago.</p> <p>25 Q. Before today had you heard that the Supreme Court</p>
<p style="text-align: center;">46</p> <p>1 A. Purposeful disregard.</p> <p>2 Q. Is there any other evidence or anything else</p> <p>3 Mi Familia contends other than that disregard?</p> <p>4 A. I want to emphasize that by stating "purposeful"</p> <p>5 I am demonstrating a perception on our part that there is</p> <p>6 intent, yes. That is my point.</p> <p>7 Q. Can you name any members of the Texas legislature</p> <p>8 that Mi Familia contends acted with a discriminatory</p> <p>9 purpose in supporting and voting for Senate Bill 14?</p> <p>10 A. I cannot name specific names, no. We are</p> <p>11 inferring that by voting for the bill in support of the</p> <p>12 bill -- in other words, a yay -- that all of the</p> <p>13 intentions that I have previously expressed hold true for</p> <p>14 every legislator or who did so.</p> <p>15 Q. So it's Mi Familia's contention that everyone who</p> <p>16 voted to support this bill did so with the discriminatory</p> <p>17 intent that we've been discussing?</p> <p>18 A. At a minimum insofar as described in my use of</p> <p>19 the term "purposeful disregard."</p> <p>20 Q. Do you know if any members of the legislature who</p> <p>21 are a member of a minority group voted for the bill?</p> <p>22 A. I don't have a list in my head of all of the</p> <p>23 legislators who voted for the bill.</p> <p>24 MR. ASTON: Go off the record a minute.</p> <p>25 (Break.)</p>	<p style="text-align: center;">48</p> <p>1 had reviewed a photo ID law a few years ago?</p> <p>2 A. I have a vague recollection but I don't have -- I</p> <p>3 don't recall any specifics.</p> <p>4 Q. How would Mi Familia define voter fraud?</p> <p>5 A. Not being a lawyer, I would define voter fraud as</p> <p>6 someone who is ineligible to vote either attempting to or</p> <p>7 actually voting.</p> <p>8 Q. Would you also include an eligible voter who</p> <p>9 votes by saying that he or she is someone else and votes</p> <p>10 for someone else?</p> <p>11 A. Do you mean -- by saying that, do you mean voter</p> <p>12 impersonation?</p> <p>13 Q. Yes. Either in person or by collecting mail-in</p> <p>14 ballots, filling them out for someone else, and submitting</p> <p>15 them?</p> <p>16 A. I would say yes. But given the -- again, going</p> <p>17 back to a previous statement about the absence of any</p> <p>18 significant evidence to suggest that either voter fraud or</p> <p>19 voter impersonation is a problem in the state of Texas, I</p> <p>20 don't see the relevance.</p> <p>21 Q. Following up on your most recent answer, and it's</p> <p>22 an answer that you've given a couple of other times, do</p> <p>23 you believe Texas should have to wait until it discovers a</p> <p>24 significant amount of in-person voter fraud before the</p> <p>25 legislature enacts a bill designed to prevent that fraud?</p>

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1 A. First, I would suggest that Texas already has  
2 mechanisms in place to prevent voter fraud in the current  
3 books. And if there were going to be any justification  
4 for adding undue burden on the electorate, particularly  
5 the Latino electorate, to address any sort of purported  
6 problem with either voter fraud or voter impersonation,  
7 that it is reasonable to expect that the proponents of  
8 such a law demonstrate that the problem exists in the  
9 first place.

10 Q. You just mentioned that Mi Familia believes there  
11 are currently laws in place designed to prevent in-person  
12 voter fraud. Is that a fair characterization of something  
13 that you -- of one of the things you just said in that  
14 previous answer?

15 A. In the larger context of voter fraud in general,  
16 yes, I believe that the current Texas statutes that are  
17 designed to implement our election laws are sufficient.

18 Q. What I'm wondering, what I'm asking, is that  
19 Mi Familia asserts there is not currently evidence of  
20 voter fraud but that we already have laws on the books  
21 designed to prevent that fraud. Mi Familia contends that  
22 because there is not this fraud, Texas should not be  
23 allowed to enact Senate Bill 14. My question is, does  
24 Mi Familia contend that the other laws that are currently  
25 in place designed to prevent fraud should not have been

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1 enacted?

2 A. You'd have to give me a specific law before I can  
3 speak about it. I can't answer --

4 Q. Well, I guess I would ask you, the laws that  
5 you're referring to when you say -- you referred to laws  
6 we have in place designed to prevent voter fraud. Maybe  
7 let's start there.

8 What laws are you referring to?

9 A. I cannot enumerate for you every single law on  
10 the books that relates to voting or the elections process.  
11 But Mi Familia Vota in its role as an organization that  
12 promotes civic engagement, specifically voter  
13 registration/education, abides by the laws.

14 We have some issues with some of the more recent  
15 laws, particularly those pertaining to what we perceive as  
16 burdensome requirements placed on those who seek to  
17 register voters, but we're in compliance with the laws.  
18 I've come here today specifically prepared to speak about  
19 the detrimental impact and the intent behind that impact  
20 on Senate Bill 14. I cannot speak specifically about any  
21 other legislation individually.

22 Q. How about as a collective whole? Is it your  
23 contention that what we have in place is proper but Senate  
24 Bill 14 goes too far, or something else?

25 A. I believe Senate Bill 14 moves us backwards. And

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1 I'll refer back to my comments about its impact directly  
2 on the -- on Texas' role in the Voting Rights Act. I  
3 believe it is regressive. I believe it hinders the  
4 legitimate rights of eligible Latino voters.

5 Q. Do you believe that a law requiring one to  
6 vote -- I'm sorry -- requiring one to register in advance  
7 of election day serves -- has those same concerns?

8 A. I think it would depend on the specific aspects  
9 of the requirements and limitations on when and how one  
10 can register. The concept of registering in and of itself  
11 is a value-neutral concept. But it cannot be seen as such  
12 without a context. And so, therefore, I would state that  
13 for me to fully answer the question, you would have to  
14 give me the context and requirements under which a person  
15 could legally register to vote.

16 Q. How about the requirements currently in place in  
17 Texas that require you to register weeks in advance of an  
18 election?

19 A. Going on the assumption -- and this is an  
20 assumption -- that those requirements are applied equally  
21 across constituents, in and of itself, registration, one  
22 could argue that there pros and cons for a shortened or  
23 long -- lengthened time frames. But in and of itself,  
24 registration applied equally across to its citizens in and  
25 of itself is not a hindrance.

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1 Q. What about the requirement that you show up to  
2 the poll with a form of an identification?

3 A. I believe that the voter registration certificate  
4 currently fulfills that requirement.

5 Q. And requiring them to keep it -- requiring a  
6 voter not to lose it and to bring it with him or her to  
7 the polls?

8 MS. PERALES: Objection to the extent it  
9 mischaracterizes the current law, which provides for a  
10 number of forms of identification beyond the voter  
11 certificate.

12 MR. ASTON: Sure.

13 Q. (BY MR. ASTON) You're not required to take the  
14 voter registration certificate. You can bring other forms  
15 that people might have.

16 A. (Witness nods.)

17 Q. But you're required to show up to the polls with  
18 an identification of some sort, whether it's the one that  
19 they send you when you register or it's one that you have  
20 otherwise?

21 A. Correct. And going on the assumption, again,  
22 that the vote -- the mechanism for registering to vote  
23 which produces the voter registration certificate is made  
24 available to all constituencies and communities. And that  
25 is acceptable.

<p style="text-align: center;">53</p> <p>1 I'm not clear -- well, I'll leave it at that.</p> <p>2 Q. Does Mi Familia believe laws like we've just been</p> <p>3 discussing, requiring one to register and requiring one to</p> <p>4 present an identification of some sort at the poll, are</p> <p>5 laws designed to prevent voter fraud?</p> <p>6 MS. PERALES: You can answer if you know.</p> <p>7 A. Beyond the purpose of implementing a legitimate</p> <p>8 election, Mi Familia Vota is not in a position to</p> <p>9 speculate on the motivation -- specific motivations of the</p> <p>10 State of Texas in terms of any specific regulation related</p> <p>11 to voting, whether that's the registration process, long</p> <p>12 or short, or the specific requirements that are -- that</p> <p>13 one needs to abide by to go and vote.</p> <p>14 Q. (BY MR. ASTON) Would Mi Familia agree that such</p> <p>15 requirements would make it harder for one to commit voter</p> <p>16 fraud?</p> <p>17 A. Are you referring to the current requirements in</p> <p>18 place?</p> <p>19 Q. The current requirements in place that we've been</p> <p>20 discussing, the registration requirement and the</p> <p>21 presentation of --</p> <p>22 A. So beyond -- not those related to SB 14?</p> <p>23 Q. Not SB 14. Those currently that are in place</p> <p>24 that we've been discussing the last few minutes,</p> <p>25 requirements such as those. Would you agree they make it</p>	<p style="text-align: center;">55</p> <p>1 (Witness reviews document.)</p> <p>2 A. Okay.</p> <p>3 Q. (BY MR. ASTON) Have you ever seen this document?</p> <p>4 A. Some of the talking points, or bullet items,</p> <p>5 rather, ring a bell, but I don't know if -- I don't recall</p> <p>6 seeing this specific e-mail, if that's what you're asking.</p> <p>7 Q. And remind us again, the name in bold, Carlos</p> <p>8 Duarte --</p> <p>9 A. Duarte.</p> <p>10 Q. -- Duarte, I'm sorry -- what is his position at</p> <p>11 Mi Familia?</p> <p>12 A. Texas state director.</p> <p>13 Q. About a third of the way down the page, do you</p> <p>14 see the four bullet points?</p> <p>15 A. Yes. That first one begins: The voter</p> <p>16 suppression law, et cetera?</p> <p>17 Q. Yes. Bullet point No. 3, the second piece of</p> <p>18 that.</p> <p>19 A. "Proponents of voter suppression laws have no</p> <p>20 evidence to support those claims" --</p> <p>21 Q. Starting with "meanwhile."</p> <p>22 A. "Meanwhile at least nine people around the</p> <p>23 country have been denied their right to vote because of</p> <p>24 these laws."</p> <p>25 Yes.</p>
<p style="text-align: center;">54</p> <p>1 harder for one to commit voter fraud?</p> <p>2 A. I would argue at face value that that is</p> <p>3 specifically why there is no need for SB 14.</p> <p>4 Q. Which gets us to the question I asked sort of at</p> <p>5 the beginning of this line. Is it your contention that</p> <p>6 there would need to be some or substantial or a great deal</p> <p>7 of additional voter fraud already discovered before Texas</p> <p>8 could enact a law designed to prevent that fraud?</p> <p>9 MS. PERALES: Objection to the extent that</p> <p>10 it suggests that there has been voter fraud discovered to</p> <p>11 date.</p> <p>12 You may answer.</p> <p>13 A. Where I struggle with this is because I -- I am</p> <p>14 not aware of any such voter fraud problem to begin with,</p> <p>15 which fuels my contention -- and perhaps I should take</p> <p>16 this opportunity to reinforce that contention -- that</p> <p>17 there is a demonstrated intent on the part of the Texas</p> <p>18 legislators who voted in favor of this legislation, and</p> <p>19 the absence of any evidence of the kinds of voter fraud</p> <p>20 and voter impersonation that get discussed, about intent</p> <p>21 to curtail and limit the legitimate voting power of the</p> <p>22 Latino community.</p> <p>23 (Exhibit 3 was marked.)</p> <p>24 Q. (BY MR. ASTON) Please take a minute to review</p> <p>25 what's been marked as Exhibit 3.</p>	<p style="text-align: center;">56</p> <p>1 Q. Okay. Yes. It says: Meanwhile, at least nine</p> <p>2 people around the country have been denied their right to</p> <p>3 vote because of these laws.</p> <p>4 Does Mi Familia have any evidence or any -- are</p> <p>5 they aware of anything about those nine people?</p> <p>6 A. I am unaware about this specific item.</p> <p>7 Q. Is Mi Familia aware of any other people in any</p> <p>8 state in which there is currently a photo ID law in place</p> <p>9 that have not been allowed to vote in 2010 or 2012 or 2008</p> <p>10 as a result of not having a photo identification?</p> <p>11 A. I have no information about any specific cases</p> <p>12 that have been brought to my attention.</p> <p>13 Q. So Mi Familia is not aware of any voter in any of</p> <p>14 those states?</p> <p>15 A. I am not aware. Insofar as I am speaking for</p> <p>16 Mi Familia Vota, I am limited, given the amount of time</p> <p>17 I've been with the organization. And so I don't -- I'm</p> <p>18 not aware of. So to my knowledge, no, I don't know.</p> <p>19 MS. PERALES: And then just to point out for</p> <p>20 the record, the text that you're discussing is part of an</p> <p>21 e-mail that's going to Mr. Duarte at Mi Familia.</p> <p>22 MR. ASTON: That is correct.</p> <p>23 Q. (BY MR. ASTON) To your knowledge, did Mi Familia</p> <p>24 receive that e-mail and do any investigation as to those</p> <p>25 nine people or any others?</p>

<p style="text-align: center;">1</p> <p style="text-align: center;">IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA</p> <p>STATE OF TEXAS, ) Plaintiff, ) VS. ) ERIC H. HOLDER, JR. in his ) official capacity as Attorney ) General of the United States, ) Defendant, ) ERIC KENNIE, et al, ) Defendant-Intervenors, ) TEXAS STATE CONFERENCE OF ) CASE NO. 1:12-CV-00128 NAACP BRANCHES, ) (RMC-DST-RLW) Defendant-Intervenors, ) Three-Judge Court TEXAS LEAGUE OF YOUNG VOTERS ) EDUCATION FUND, et al, ) Defendant-Intervenors, ) TEXAS LEGISLATIVE BALCK ) CAUCUS, et al, ) Defendant-Intervenors, ) VICTORIA RODRIGUEZ, et al., ) Defendant-Intervenors. )</p> <p style="text-align: center;">***** ORAL DEPOSITION OF COLBY BEUCK MAY 14, 2012 *****</p>	<p style="text-align: center;">3</p> <p>1 APPEARANCES 2 FOR THE PLAINTIFF, STATE OF TEXAS: 3 Patrick K. Sweeten Matthew Frederick 4 Jonathan F. Mitchell OFFICE OF THE ATTORNEY GENERAL OF TEXAS 5 P.O. Box 12548 Austin, TX 78711-2548 6 209 West 8th Street 7 8th Floor Austin, TX 78701 8 (512) 936-1307 9 patrick.sweeten@aog.state.tx.us 10 FOR THE DEFENDANT, HOLDER, ET AL: 11 Elizabeth S. Westfall Daniel Freeman 12 Risa Berkower Jennifer Maranzano 13 Bruce Gear U.S. DEPARTMENT OF JUSTICE 14 950 Pennsylvania Avenue, NW NWB - Room 7202 15 Washington, DC 20530 (202) 305-7766 16 elizabeth.westfall@usdoj.gov 17 FOR THE DEFENDANT-INTERVENOR TEXAS STATE CONFERENCE OF NAACP BRANCHES AND THE MEXICAN AMERICAN LEGISLATIVE 18 CAUCUS: 19 Ezra D. Rosenberg DECHERT, LLP 20 Suite 500 902 Carnegie Center 21 Princeton, NJ 08540-6531 (609) 955-3200 22 ezra.rosenberg@dechert.com 23 24 25</p>
<p style="text-align: center;">2</p> <p>1 ORAL DEPOSITION OF COLBY BEUCK, produced as a 2 witness at the instance of the Defendant, was duly 3 sworn, was taken in the above-styled and numbered cause 4 on the MAY 14, 2012, from 9:50 a.m. to 6:08 p.m., before 5 Chris Carpenter, CSR, in and for the State of Texas, 6 reported by machine shorthand, at the offices of The 7 United States Attorney, 816 Congress Avenue, Suite 1000, 8 Austin, Texas 78701, pursuant to the Federal Rules of 9 Civil Procedure and the provisions stated on the record 10 or attached hereto. 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p style="text-align: center;">4</p> <p>1 FOR THE KENNIE INTERVENORS: 2 Chad W. Dunn BRAZIL &amp; DUNN, LLP 3 4201 Cypress Creek Parkway Suite 530 4 Houston, TX 77068 (281) 580-6310 5 chad@brazilanddunn.com 6 FOR THE RODRIGUEZ INTERVENORS: 7 Amy Pederson (by telephone) 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>

<p style="text-align: center;">5</p> <p>1 INDEX</p> <p>2 Appearances.....2</p> <p>3 COLBY BEUCK</p> <p>4 Examination by Ms. Westfall.....7</p> <p>5 Examination by Mr. Rosenberg.....249</p> <p>6 Signature and Changes.....278</p> <p>7 Reporter's Certificate.....280</p> <p>8 EXHIBITS</p> <p>9 NO. DESCRIPTION PAGE MARKED</p> <p>10 2 Notice of Deposition 19</p> <p>11 3 Letter From Lt. Governor Dewhurst on Voter I.D. Bill 32</p> <p>12 4 House Bill 112 56</p> <p>13 5 Senate Bill 14 111</p> <p>14 6 Georgia Statute on Photo Identification 142</p> <p>15 7 Printout From the Website of Rep. Patricia Harless 157</p> <p>16 8 Bill History of SB 14 190</p> <p>17 9 House Journal, March 23, 2011 214</p> <p>18 10 Bloomberg Article: Texas Voter Identification Law Blocked by Justice Department as Biased 220</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: center;">7</p> <p>1 Texas Attorney General's Office on behalf of the State</p> <p>2 of Texas and on behalf of the witness.</p> <p>3 THE REPORTER: And on the phone?</p> <p>4 MS. PEDERSON: Amy Pederson for the</p> <p>5 Rodriguez Intervenors.</p> <p>6 MS. WESTFALL: Thank you.</p> <p>7 COLBY BEUCK,</p> <p>8 having been first duly sworn to testify the truth, the</p> <p>9 whole truth, and nothing but the truth, testified as</p> <p>10 follows:</p> <p>11 EXAMINATION</p> <p>12 BY MS. WESTFALL:</p> <p>13 Q. Good morning, Mr. Beuck. Could you state and</p> <p>14 spell your name for the record, please.</p> <p>15 A. Yes. My name is Colby, C-o-l-b-y, and my last</p> <p>16 name is Beuck, and it's spelled B-e-u-c-k.</p> <p>17 Q. Have you ever been deposed?</p> <p>18 A. No. This is my first time.</p> <p>19 Q. Great. I'm going to go over some ground rules</p> <p>20 so you'll understand how today will go, will operate.</p> <p>21 Today you will be -- you're under oath.</p> <p>22 You have been sworn in, and you'll be testifying</p> <p>23 truthfully, accurately, and completely. Do you agree</p> <p>24 with that?</p> <p>25 A. Yes.</p>
<p style="text-align: center;">6</p> <p>1 (Witness sworn)</p> <p>2 THE REPORTER: Would all counsel present</p> <p>3 state their names and affiliations.</p> <p>4 MS. WESTFALL: I'm Elizabeth Westfall.</p> <p>5 I'm with the U.S. Department of Justice. I represent</p> <p>6 the Attorney General in this matter.</p> <p>7 MR. FREEMAN: Dan Freeman, also with the</p> <p>8 Department of Justice representing the Attorney General.</p> <p>9 MS. BERKOWER: Risa Berkower, also with</p> <p>10 the Justice Department.</p> <p>11 MS. MARANZANO: Jennifer Maranzano, also</p> <p>12 with the Justice Department.</p> <p>13 MR. GEAR: Bruce Gear, also with the</p> <p>14 Justice Department.</p> <p>15 MR. ROSENBERG: Ezra Rosenberg from</p> <p>16 Dechert, LLP, representing the Texas State Conference of</p> <p>17 NAACP Branches and the Mexican-American Legislative</p> <p>18 Caucus.</p> <p>19 MR. DUNN: Chad Dunn for the Defendant</p> <p>20 Kennie Intervenors.</p> <p>21 MR. MITCHELL: Jonathan Mitchell for the</p> <p>22 State of Texas.</p> <p>23 MR. FREDERICK: Matthew Frederick for the</p> <p>24 State of Texas.</p> <p>25 MR. SWEETEN: Patrick Sweeten with the</p>	<p style="text-align: center;">8</p> <p>1 Q. The court reporter will prepare a transcript of</p> <p>2 everything that's said today, so you must respond to</p> <p>3 questions orally without shaking your head or nodding.</p> <p>4 Okay?</p> <p>5 A. Okay.</p> <p>6 Q. You must wait for me to finish my question</p> <p>7 before you answer; otherwise, we'll be talking over each</p> <p>8 other. Do you understand?</p> <p>9 A. Yes.</p> <p>10 Q. I will try to ask you clear questions, but if</p> <p>11 you don't understand a question, will you let me know?</p> <p>12 A. Yes.</p> <p>13 Q. If you would like to take a break, you may do</p> <p>14 so, but please tell me, and I'll try to accommodate you,</p> <p>15 but if there is a question pending, I would ask that you</p> <p>16 answer that question first. Do you agree?</p> <p>17 A. Yes.</p> <p>18 Q. And you understand that you're under oath</p> <p>19 today; is that right?</p> <p>20 A. Yes.</p> <p>21 Q. And you may be subject to penalty of perjury</p> <p>22 for giving false or misleading testimony; is that</p> <p>23 correct?</p> <p>24 A. Yes.</p> <p>25 Q. Do you understand these instructions?</p>

<p style="text-align: center;">17</p> <p>1 question that was left pending with you?</p> <p>2 MR. SWEETEN: I do. I think, as you said,</p> <p>3 that the bill was passed in May of 2011. Our position</p> <p>4 would be that he can discuss -- he could reveal</p> <p>5 discussions with Representative Harless that occurred</p> <p>6 after passage, except to the extent that those</p> <p>7 conversations relate to matters that occurred before the</p> <p>8 passage of the bill. So if he's discussing --</p> <p>9 Any discussions that you've had with</p> <p>10 Patricia Harless or other members who have claimed the</p> <p>11 privilege or their staffs that related to the passage of</p> <p>12 Senate Bill 14, that legislation, do not reveal</p> <p>13 those. However, if any discussions that you've had, you</p> <p>14 can reveal -- after passage of May 2011, you can reveal</p> <p>15 information or discussions that you've had, as long as</p> <p>16 they don't relate to the prepassage matters. Does that</p> <p>17 make sense? We can talk about that if you --</p> <p>18 THE WITNESS: Can we talk about it?</p> <p>19 MR. SWEETEN: Okay. Let me talk with the</p> <p>20 witness about it.</p> <p>21 MS. WESTFALL: Let's go off the record</p> <p>22 again.</p> <p>23 (Recess at 10:09 a.m to 10:10 a.m.)</p> <p>24 MS. WESTFALL: We're going back on the</p> <p>25 record. Thank you.</p>	<p style="text-align: center;">19</p> <p>1 A. No.</p> <p>2 (Exhibit 2 marked for identification.)</p> <p>3 Q. (By Ms. Westfall) I'm going to hand you a</p> <p>4 document that's been marked U.S. Exhibit 2. Have you</p> <p>5 seen this document before?</p> <p>6 A. Yes.</p> <p>7 Q. What is it?</p> <p>8 A. This is my Notice of Deposition, I believe.</p> <p>9 Q. When did you first receive this?</p> <p>10 A. A week ago, I believe, or several weeks ago.</p> <p>11 Q. What did you do when you received this?</p> <p>12 A. I went back through our documents and made sure</p> <p>13 I -- we had produced all the documents requested.</p> <p>14 Q. How did you conduct that search?</p> <p>15 A. The search for e-mails, there were a keyword</p> <p>16 search through our e-mail system, a document search</p> <p>17 through our files.</p> <p>18 Q. And when you talk about files, these are paper</p> <p>19 files?</p> <p>20 A. Paper files, yes.</p> <p>21 Q. Where are they located?</p> <p>22 A. In the Capitol office.</p> <p>23 Q. Are they located in Representative Harless's</p> <p>24 office itself?</p> <p>25 A. No. They would be located in our -- our file</p>
<p style="text-align: center;">18</p> <p>1 Q. (By Ms. Westfall) Mr. Beuck, how many</p> <p>2 conversations did you have with Representative Harless</p> <p>3 in advance of this deposition about this deposition?</p> <p>4 A. Several.</p> <p>5 Q. Fewer than ten?</p> <p>6 A. Yes.</p> <p>7 Q. More than five?</p> <p>8 A. I would say between five and ten.</p> <p>9 Q. What was the general subject matter of the</p> <p>10 topics that you discussed?</p> <p>11 A. The majority of the conversations were</p> <p>12 regarding scheduling, the fact of when I was going to be</p> <p>13 deposed, when she was going to be deposed. That was the</p> <p>14 majority of the conversations.</p> <p>15 Q. Did you discuss Senate Bill 14 at all?</p> <p>16 MR. SWEETEN: I'm going to, again, caution</p> <p>17 the witness that based upon the legislative privilege,</p> <p>18 do not reveal discussions that you've had with</p> <p>19 Representative Harless at any time that relate to the</p> <p>20 passage of Senate Bill 14. You can discuss matters that</p> <p>21 don't relate to legislation that occurred after the</p> <p>22 passage of Senate Bill 14.</p> <p>23 THE WITNESS: Okay.</p> <p>24 Q. (By Ms. Westfall) Did you bring any notes or</p> <p>25 documents with you today?</p>	<p style="text-align: center;">20</p> <p>1 system, which is not located in her office.</p> <p>2 Q. And where is that file system located?</p> <p>3 A. In the front room.</p> <p>4 Q. What is --</p> <p>5 A. File cabinets.</p> <p>6 Q. What is the front room?</p> <p>7 A. I'm sorry?</p> <p>8 Q. What is the front room?</p> <p>9 A. The -- the common area of the office.</p> <p>10 Q. And by "office," do you mean the Capitol</p> <p>11 office?</p> <p>12 A. Capitol office, yes.</p> <p>13 Q. Who maintains those documents?</p> <p>14 A. Myself, and I would say I would be the</p> <p>15 custodian of those records.</p> <p>16 Q. And you're the custodian of the records for</p> <p>17 Senate Bill 14 or a broader category of documents?</p> <p>18 A. Could you be -- a broader category of</p> <p>19 documents.</p> <p>20 Q. For all documents in the front office or only</p> <p>21 certain bills?</p> <p>22 A. Not all documents. We have other employees in</p> <p>23 the office who -- who maintain the files as</p> <p>24 well. Senate Bill 14 was -- I was the primary staff</p> <p>25 person responsible for that legislation, so those files</p>

<p style="text-align: center;">21</p> <p>1 were under my supervision.</p> <p>2 Q. So you searched hard copy files. You searched</p> <p>3 e-mail. What other records and documents did you search</p> <p>4 in response to Exhibit 2?</p> <p>5 A. Electronic files as well. Not just</p> <p>6 e-mails. Our saved files.</p> <p>7 Q. Did you look on a shared drive?</p> <p>8 A. Yes.</p> <p>9 Q. Where did you look on the shared drive? What</p> <p>10 particular drive on the --</p> <p>11 A. Looking for the -- the X drive is our shared</p> <p>12 file -- our shared drive for the office.</p> <p>13 Q. How did you conduct that search of the X drive?</p> <p>14 A. With keywords, and as well as manually going</p> <p>15 through and looking through the documents.</p> <p>16 Q. How many documents did you discover through</p> <p>17 that search on the X drive?</p> <p>18 A. The electronic files on the X drive, I would</p> <p>19 say more than -- more than 50.</p> <p>20 Q. What did you do with those documents?</p> <p>21 A. I turned them over to my attorneys.</p> <p>22 Q. And which of your attorneys here today did you</p> <p>23 turn them over to?</p> <p>24 A. Stacey Napier -- Schiff -- I'm sorry. She</p> <p>25 changed her last name. But it was an attorney with the</p>	<p style="text-align: center;">23</p> <p>1 Q. Where did you search for those documents?</p> <p>2 A. I have a file for the documents that are --</p> <p>3 that would be under that, that request.</p> <p>4 Q. Did you produce any documents to your attorney?</p> <p>5 A. Yes.</p> <p>6 Q. How many?</p> <p>7 A. I don't know the number of files.</p> <p>8 MR. SWEETEN: He's asked you to speak up</p> <p>9 just a little bit, if you would.</p> <p>10 THE WITNESS: I'm sorry.</p> <p>11 MR. SWEETEN: No, you're doing fine.</p> <p>12 Q. (By Ms. Westfall) Turning to your attention to</p> <p>13 Number 8 in U.S. Exhibit 2, do you see that number?</p> <p>14 A. Yes.</p> <p>15 Q. And what is it?</p> <p>16 A. All public statements you or others in your</p> <p>17 office, including the Legislature, have made about voter</p> <p>18 ID.</p> <p>19 Q. Did you conduct a search for these documents?</p> <p>20 A. Yes, I did.</p> <p>21 Q. How many documents did you find?</p> <p>22 A. I would say five to ten.</p> <p>23 Q. Representative Harless didn't make more public</p> <p>24 statements on SB 14?</p> <p>25 A. That we had in our possession, I would say five</p>
<p style="text-align: center;">22</p> <p>1 Attorney General's Office.</p> <p>2 Q. When did you turn those documents over to</p> <p>3 Ms. Napier?</p> <p>4 A. I believe it was -- the majority of the</p> <p>5 documents I turned over several weeks ago. There was</p> <p>6 additional documents in here that were not -- we</p> <p>7 received several, and I believe there was another</p> <p>8 request for documents. This covered the majority of</p> <p>9 that. What this did not cover, we produced recently. I</p> <p>10 believe it was last week.</p> <p>11 Q. Turning your attention now to Exhibit -- U.S.</p> <p>12 Exhibit 2, do you see the list of documents in that</p> <p>13 document, a numbered list after Attachment A?</p> <p>14 A. Okay. This is Number 2, "All documents and</p> <p>15 communications not limited to --"</p> <p>16 Q. I was just turning your attention to the list</p> <p>17 of documents. And you now see that list of documents --</p> <p>18 A. Yes.</p> <p>19 Q. -- correct?</p> <p>20 A. Yes. Yes.</p> <p>21 Q. Turning your attention to Number 7, do you see</p> <p>22 that request?</p> <p>23 A. Yes.</p> <p>24 Q. Did you search for those documents?</p> <p>25 A. Yes.</p>	<p style="text-align: center;">24</p> <p>1 to ten.</p> <p>2 Q. Did she make other -- more than five to ten</p> <p>3 public statements about SB 14?</p> <p>4 A. I would believe so.</p> <p>5 Q. And who would know where those are maintained?</p> <p>6 A. I can't answer. I don't know.</p> <p>7 MR. SWEETEN: Objection, assumes facts not</p> <p>8 in evidence.</p> <p>9 Q. (By Ms. Westfall) Did you provide those public</p> <p>10 statements to Ms. Napier?</p> <p>11 A. That was -- that was part of the documents that</p> <p>12 I turned over, yes.</p> <p>13 Q. Turning your attention to Number 11, what is</p> <p>14 that request?</p> <p>15 A. All documents and communications concerning</p> <p>16 civil and criminal allegations, investigations,</p> <p>17 warnings, enforcement actions.</p> <p>18 Q. Did you conduct a search for those documents?</p> <p>19 A. Yes.</p> <p>20 Q. Did you find any documents?</p> <p>21 A. Yes.</p> <p>22 Q. What were those documents?</p> <p>23 A. We had -- there was --</p> <p>24 MS. WESTFALL: I would note for the record</p> <p>25 that the witness is reviewing the document.</p>

<p style="text-align: center;">25</p> <p>1 A. Yes. I did turn over information regarding</p> <p>2 that. There were statistics on the Attorney General's</p> <p>3 investigations into voter fraud.</p> <p>4 Q. (By Ms. Westfall) Was that the sum total of</p> <p>5 the documents that you turned over in response to Number</p> <p>6 11?</p> <p>7 A. I believe there was also some newspaper</p> <p>8 articles on fraud investigations.</p> <p>9 Q. Were those fraud investigations in the state of</p> <p>10 Texas?</p> <p>11 A. Yes. And there could have been some that were</p> <p>12 nationwide. The majority of them were for Texas.</p> <p>13 Q. Thank you, Mr. Beuck.</p> <p>14 Could you tell me where you went to</p> <p>15 college?</p> <p>16 A. The University of Georgia.</p> <p>17 Q. What year did you graduate?</p> <p>18 A. 1999.</p> <p>19 Q. Did you go to law school?</p> <p>20 A. Yes.</p> <p>21 Q. Where did you go to law school?</p> <p>22 A. The University of Texas.</p> <p>23 Q. What year did you graduate?</p> <p>24 A. 2002.</p> <p>25 Q. As a general matter, do you vote in elections</p>	<p style="text-align: center;">27</p> <p>1 Q. Do you have a Texas driver's license?</p> <p>2 A. Yes, I do.</p> <p>3 Q. Do you recall ever waiting in line at the</p> <p>4 driver license office?</p> <p>5 A. I believe I did. Yes, I have waited in a</p> <p>6 driver's license office.</p> <p>7 Q. Do you recall how long you waited in line?</p> <p>8 A. That was several years ago. No, I do not</p> <p>9 remember.</p> <p>10 Q. Were you born in Texas?</p> <p>11 A. Yes, I was.</p> <p>12 Q. Do you have a certified copy of your birth</p> <p>13 certificate?</p> <p>14 A. Yes.</p> <p>15 Q. Do you have any experience related to election</p> <p>16 law?</p> <p>17 A. Could you be -- elaborate on that?</p> <p>18 Q. Outside of your work on voter ID in the</p> <p>19 Legislature, do you have any experience in election law?</p> <p>20 A. No, I do not.</p> <p>21 Q. Have you ever worked as a poll worker?</p> <p>22 A. No, I have not.</p> <p>23 Q. Have you ever worked as a poll watcher?</p> <p>24 A. No, I have not.</p> <p>25 Q. Have you ever witnessed any problems in the</p>
<p style="text-align: center;">26</p> <p>1 in Texas?</p> <p>2 A. Yes.</p> <p>3 Q. Do you vote in person or absentee?</p> <p>4 A. I vote in person.</p> <p>5 Q. How far is your polling place from your</p> <p>6 residence?</p> <p>7 A. I would say it's close. Several blocks. I'm</p> <p>8 not very good with distance, but I would say it's close</p> <p>9 walkable.</p> <p>10 Q. Do you have a driver's license?</p> <p>11 A. Yes, I do.</p> <p>12 Q. How far is the nearest driver license office</p> <p>13 from your residence?</p> <p>14 A. I believe it's on North Lamar. I can't tell</p> <p>15 you the distance, but it is -- I'm not very good</p> <p>16 distance. So I know where it is. It's driveable.</p> <p>17 About a 15-minute drive, perhaps.</p> <p>18 Q. Do you know its hours of operation?</p> <p>19 A. No, I do not.</p> <p>20 Q. When was the last time you visited that driver</p> <p>21 license office?</p> <p>22 A. I don't know. I don't know.</p> <p>23 Q. When did you last renew your driver's license?</p> <p>24 A. I do not know. I'd have to look at my -- I</p> <p>25 cannot remember when I renewed my license.</p>	<p style="text-align: center;">28</p> <p>1 polls while you were voting?</p> <p>2 A. No.</p> <p>3 Q. Have you ever witnessed any voter trying to</p> <p>4 impersonate another voter?</p> <p>5 A. No, I have not.</p> <p>6 Q. What was your first job out of law school?</p> <p>7 A. I was employed with the County Attorney's</p> <p>8 Office, Travis County Attorney's Office.</p> <p>9 Q. What year was that?</p> <p>10 A. That was immediately after graduation, 2002.</p> <p>11 Q. How long were you employed in that office?</p> <p>12 A. That job was, I believe, for several months</p> <p>13 while I was studying for the bar exam.</p> <p>14 Q. Was it a clerkship, in essence?</p> <p>15 A. Yes.</p> <p>16 Q. And what was your next legal job after that?</p> <p>17 A. That would be with the Office of the Lieutenant</p> <p>18 Governor beginning in 2003.</p> <p>19 Q. Did you ever work for a law firm named Chapel</p> <p>20 Hill and Lawrence?</p> <p>21 A. Yes, I did.</p> <p>22 Q. When did you work there?</p> <p>23 A. That was a summer internship, and I can't</p> <p>24 remember.</p> <p>25 Q. Was it during law school?</p>

<p style="text-align: center;">29</p> <p>1 A. It was during law school. I'm trying to</p> <p>2 remember which year. I believe it was my -- I guess it</p> <p>3 would have been in 2000.</p> <p>4 Q. What year did --</p> <p>5 A. Or thereabouts.</p> <p>6 Q. I'm sorry. I'm doing something I wasn't</p> <p>7 supposed to, which was to talk over you.</p> <p>8 What year did you start working for</p> <p>9 Lieutenant Governor Dewhurst?</p> <p>10 A. That was in 2003.</p> <p>11 Q. In what capacity were you hired?</p> <p>12 A. I was hired as a policy analyst.</p> <p>13 Q. How did you come about getting this job?</p> <p>14 A. I interviewed for the position.</p> <p>15 Q. Why did you decide you wanted to work for the</p> <p>16 Lieutenant Governor for Dewhurst?</p> <p>17 A. I've always been interested in state</p> <p>18 government, and I thought I would be very good for the</p> <p>19 position.</p> <p>20 Q. Could you describe the policy analyst position?</p> <p>21 A. Yes. My duties? I was to track legislation</p> <p>22 and monitor the issues that I was responsible for, for</p> <p>23 the Lieutenant Governor and senior staff.</p> <p>24 Q. Did you have any connection with the Lieutenant</p> <p>25 Governor before interviewing for his office -- with his</p>	<p style="text-align: center;">31</p> <p>1 A. Yes. I believe my title was Counsel For Public</p> <p>2 Policy.</p> <p>3 Q. Who handled voter ID issues for Mr. Dewhurst</p> <p>4 when you were working for him?</p> <p>5 A. Bryan Hebert.</p> <p>6 Q. Would you spell list last name?</p> <p>7 A. I believe it's H-e-b-e-r-t.</p> <p>8 Q. What was his title?</p> <p>9 A. I do not know.</p> <p>10 Q. Was he -- did he handle all aspects of voter ID</p> <p>11 for the Lieutenant Governor or certain aspects?</p> <p>12 A. I can't speak to that. I don't know. He was</p> <p>13 the policy analyst in charge of that issue. I don't</p> <p>14 know his scope.</p> <p>15 Q. How big is the office?</p> <p>16 A. 25 to 35 people.</p> <p>17 Q. How many policy analysts?</p> <p>18 A. Ten.</p> <p>19 Q. And you were employed there --</p> <p>20 A. Plus or minus ten.</p> <p>21 Q. You were employed there until 2009; is that</p> <p>22 correct?</p> <p>23 A. 2009, yes.</p> <p>24 Q. Would you say that voter ID was one of the</p> <p>25 Lieutenant Governor's signature issues?</p>
<p style="text-align: center;">30</p> <p>1 office?</p> <p>2 A. No.</p> <p>3 Q. What issues did you handle for him?</p> <p>4 A. Initially, jurisprudence issues. The</p> <p>5 Jurisprudence Committee was my committee that I was</p> <p>6 tasked with following. Then criminal justice issues and</p> <p>7 -- criminal justice was mainly my policy area.</p> <p>8 Q. What did the Jurisprudence Committee handle as</p> <p>9 a general matter?</p> <p>10 A. A variety of legal issues. I would say</p> <p>11 anything from family law matters to other civil -- civil</p> <p>12 legal matters.</p> <p>13 Q. Did you handle election issues for Governor --</p> <p>14 Lieutenant Governor Dewhurst?</p> <p>15 A. No, I did not.</p> <p>16 Q. Did you handle voter ID?</p> <p>17 A. No, I did not.</p> <p>18 Q. How long were you employed with Lieutenant</p> <p>19 Governor Dewhurst?</p> <p>20 A. Seven years.</p> <p>21 Q. So you didn't handle voter ID at all?</p> <p>22 A. I was not in -- Voter ID was not my -- it was</p> <p>23 not my area.</p> <p>24 Q. Did you remain a policy analyst for the</p> <p>25 duration of your employment with Mr. Dewhurst?</p>	<p style="text-align: center;">32</p> <p>1 MR. SWEETEN: Objection, calls for</p> <p>2 speculation.</p> <p>3 Q. (By Ms. Westfall) You may answer.</p> <p>4 A. I know it was an issue he was very interested</p> <p>5 in. I can't speculate on his priorities, but I know it</p> <p>6 was an important issue.</p> <p>7 Q. Did he have a press person handle voter IDs</p> <p>8 issues?</p> <p>9 A. Yes.</p> <p>10 Q. Who was that person?</p> <p>11 A. While I was employed?</p> <p>12 Q. Yes.</p> <p>13 A. Mike Wintemute.</p> <p>14 Q. Are you aware of whether he drafted a letter</p> <p>15 that Lieutenant Governor Dewhurst wrote in 2007</p> <p>16 regarding voter ID?</p> <p>17 A. No, I don't have any knowledge of that.</p> <p>18 MS. WESTFALL: Could you please mark this</p> <p>19 U.S. 3 and hand it to the witness?</p> <p>20 (Exhibit 3 marked for identification.)</p> <p>21 Q. (By Ms. Westfall) You've been handed U.S. 3.</p> <p>22 Do you recognize this document?</p> <p>23 MR. SWEETEN: Caution the witness to</p> <p>24 review the document before answering a question about</p> <p>25 it.</p>

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1 A. (Viewing documents.) It appears this is a  
2 letter from the Lieutenant Governor or a -- printed in  
3 the Texas Weekly.  
4 Q. (By Ms. Westfall) Have you ever seen this  
5 letter before?  
6 A. I do not remember it.  
7 Q. Do you know who wrote this for Mr. Dewhurst?  
8 A. No, I do not.  
9 Q. Why did you stop working for Mr. Dewhurst?  
10 A. I was looking to grow as my -- in my -- my  
11 position, I was looking to just grow professionally, and  
12 I felt that a change was good.  
13 Q. So when did you stop working for him?  
14 A. November of 2009.  
15 Q. Did you come to be employed elsewhere at that  
16 time?  
17 A. Yes.  
18 Q. Where did you become employed?  
19 A. With Representative Patricia Harless.  
20 Q. How did you obtain that position?  
21 A. Interviewed.  
22 Q. Did you have any connection with Representative  
23 Harless prior to November 2009?  
24 A. No.  
25 Q. So it was a cold interview?

34

1 A. I was informed of the position through a  
2 friend.  
3 Q. Who was the friend?  
4 A. Lisa Kaufman.  
5 Q. Is Lisa Kaufman employed by Ms. Harless?  
6 A. No.  
7 Q. Who is Lisa Kaufman?  
8 A. She works -- she is a former employee of the  
9 Speaker.  
10 Q. Speaker Straus?  
11 A. Yes.  
12 Q. Did you she tell you about the availability of  
13 a chief of staff position with Ms. Harless?  
14 A. Yes.  
15 Q. When did you interview with her?  
16 A. Fall 2009.  
17 Q. How long have you -- have you held that  
18 position continuously up to the present?  
19 A. Yes.  
20 Q. What are your responsibilities as chief of  
21 staff for Representative Harless?  
22 A. It varies during the time of year. During  
23 session, my responsibilities are different than during  
24 the interim. Primarily during session, I'm responsible  
25 for the Representative's legislation. As chief of

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1 staff, also responsible for operating the office,  
2 employees, and also constituent communications.  
3 Q. Do you also engage in communications with the  
4 executive branch on behalf of Representative Harless?  
5 A. Meaning the Governor's Office?  
6 Q. Well, we'll start with the Governor's Office.  
7 Do you engage in those communications on her behalf or  
8 with her?  
9 A. If the Governor's Office calls, I'm usually the  
10 one to answer the phone.  
11 Q. And would the same be true for the Lieutenant  
12 Governor's Office?  
13 A. Currently, I'm the only employee, so yes, I'm  
14 the one answering the phone.  
15 Q. So the office is you, currently, for  
16 Representative Harless?  
17 A. Full-time employee, yes.  
18 Q. Do you have any legislative areas that you  
19 focus on?  
20 A. With my current employee? I'm sorry. In my  
21 current employment?  
22 Q. Yes.  
23 A. My areas -- Representative Harless is on the  
24 State Affairs Committee. Those were the issues that she  
25 had asked me to -- to monitor specifically.

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1 Q. State Affairs handles voter ID issues; does it  
2 not?  
3 A. No, it does not.  
4 Q. What does it handle?  
5 A. It handles a wide variety of issues related to  
6 electric, dereg -- electric. Some social issues. It's  
7 a fairly large committee that receives a lot of  
8 different legislation. Electric power,  
9 telecommunications are the major issues that come from  
10 through that committee, as well as social issues.  
11 Q. Is she running for reelection this year?  
12 A. Yes.  
13 Q. Are you involved in the campaign in any way?  
14 A. No.  
15 Q. When Representative Harless is considering how  
16 to vote on a bill, do you advise her on that?  
17 MR. SWEETEN: I'm going to caution the  
18 witness to the extent that your answer may reveal  
19 thoughts or opinions about legislation or in furtherance  
20 of the legislative process, don't answer that. You can  
21 answer as a general matter.  
22 MS. WESTFALL: Mr. Sweeten, I understand  
23 your -- I understand your concerns about privilege, but  
24 I would ask that you not -- that you refrain from  
25 speaking objections as general matter, and that the

<p style="text-align: center;">37</p> <p>1 witness be able to answer questions about the fact of a</p> <p>2 communication having occurred.</p> <p>3 MR. SWEETEN: Okay. And thus far, I have</p> <p>4 let him answer questions about the fact of the</p> <p>5 communication. However, it's my duty to assert the</p> <p>6 privilege that is appropriate here, and that is the</p> <p>7 legislative privilege with respect to these issues. And</p> <p>8 so I will caution him, as we proceed, to avoid providing</p> <p>9 information related to the communications that we've</p> <p>10 outlined. With that, you can go ahead.</p> <p>11 A. As -- as part of my job duties, I -- I do --</p> <p>12 I'm asked to make recommendations on legislation.</p> <p>13 Q. (By Ms. Westfall) Do you generally do that for</p> <p>14 Representative Harless?</p> <p>15 A. Yes.</p> <p>16 Q. And how do those recommendations -- how are</p> <p>17 those recommendations conveyed?</p> <p>18 A. A variety of ways.</p> <p>19 Q. In-person meetings?</p> <p>20 A. Yes.</p> <p>21 Q. Telephone meetings?</p> <p>22 A. Yes.</p> <p>23 Q. E-mail?</p> <p>24 A. Yes.</p> <p>25 Q. Texting?</p>	<p style="text-align: center;">39</p> <p>1 A. I don't believe she does.</p> <p>2 Q. She uses Yahoo?</p> <p>3 A. No.</p> <p>4 Q. What is your role, generally, when</p> <p>5 Representative Harless sponsors a bill?</p> <p>6 A. Sponsoring a bill is, the legislation comes</p> <p>7 over from the Senate. As other legislation, I prepare</p> <p>8 the legislation to make its way through the process, the</p> <p>9 legislative process.</p> <p>10 Q. So is it your testimony that bills all</p> <p>11 originate in the Senate, or do some originate in the</p> <p>12 House?</p> <p>13 A. No. No. Bills do originate in the House. You</p> <p>14 said sponsor a bill. That would be -- sponsoring</p> <p>15 legislation is -- for Representative Harless would be a</p> <p>16 Senate bill. An author, she would be the author of the</p> <p>17 bill if it was House bill.</p> <p>18 Q. I see. Thank you for clarifying that for me.</p> <p>19 Have your responsibilities changed during</p> <p>20 the course of your employment with Representative</p> <p>21 Harless?</p> <p>22 A. No.</p> <p>23 Q. Do you represent Representative Harless in an</p> <p>24 attorney-client capacity?</p> <p>25 A. Yes, I have.</p>
<p style="text-align: center;">38</p> <p>1 A. Yes.</p> <p>2 Q. Do you e-mail her on a work e-mail, or her</p> <p>3 personal e-mail, or all the above?</p> <p>4 A. All of the above.</p> <p>5 Q. What do you generally -- what e-mail do you</p> <p>6 generally use with Representative Harless?</p> <p>7 A. It depends. Typically, it is her -- her -- a</p> <p>8 personal account.</p> <p>9 Q. Under Texas FOIA, public information law, are</p> <p>10 citizens able to obtain e-mails through the government</p> <p>11 account?</p> <p>12 A. I'm not an expert --</p> <p>13 Q. To the extent you know.</p> <p>14 A. -- on the public information law, so I can't --</p> <p>15 I know state e-mails are subject to the open records</p> <p>16 law.</p> <p>17 Q. Do you know whether legislators sometimes use</p> <p>18 personal e-mail to avoid FOIA?</p> <p>19 MR. SWEETEN: Objection, calls for</p> <p>20 speculation.</p> <p>21 Q. (By Ms. Westfall) You may answer.</p> <p>22 A. I can't speak to that. I don't know. I can't</p> <p>23 speak for other legislators.</p> <p>24 Q. Do you know whether Representative Harless has</p> <p>25 a Gmail account?</p>	<p style="text-align: center;">40</p> <p>1 Q. On what occasion? Just -- and I'm not asking</p> <p>2 you to talk about privileged communications. Just</p> <p>3 generally, when have you represented her as her</p> <p>4 attorney?</p> <p>5 A. When she requests legal advice.</p> <p>6 Q. And is that in your capacity as chief of</p> <p>7 staff? You're providing her with legal advice? Is that</p> <p>8 your testimony?</p> <p>9 A. When -- when there is a question on legal</p> <p>10 issues, I provide my legal advice.</p> <p>11 Q. So I believe you testified that you're the sole</p> <p>12 staff person right now; is that right?</p> <p>13 A. Full time. We do have part-time staff.</p> <p>14 Q. Is there anyone else in the office who has ever</p> <p>15 handled voter ID issues while you've been employed with</p> <p>16 Representative Harless?</p> <p>17 A. No.</p> <p>18 Q. You're the person who does everything on that</p> <p>19 issue for her right now?</p> <p>20 A. Yes.</p> <p>21 Q. How many election-related bills has</p> <p>22 Representative Harless sponsored?</p> <p>23 A. Besides voter ID, we -- we had two bills last</p> <p>24 session. I don't know other sessions. I can speak to</p> <p>25 the past session. But I'm not qualified to speak on the</p>

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1 other sessions when I was not there.  
 2 Q. Could you tell me the bill number for the first  
 3 one?  
 4 A. The bill number for?  
 5 Q. You said there were two bills, election-related  
 6 bills?  
 7 A. No. I don't know the bill numbers.  
 8 Q. Could you describe the bills for me?  
 9 A. There was one bill regarding school board --  
 10 school board elections, there in Harris County, to help  
 11 our local school district with the costs associated with  
 12 running an election.  
 13 Q. Would you describe the other bill?  
 14 A. The other bill had to do with translating the  
 15 election materials, the costs associated with Harris  
 16 County translating the election materials. Harris  
 17 County had asked to -- for our office to help with that,  
 18 to see if the Secretary of State would translate those  
 19 materials so that there's uniformity across the state.  
 20 That's what the legislation did.  
 21 Q. And so the purpose of the bill was to provide  
 22 funding for the printing of those materials; is that  
 23 right?  
 24 A. The actual translation of the election  
 25 materials.

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1 Q. Why did Representative Harless sponsor that  
 2 legislation?  
 3 MR. SWEETEN: I'm going to object to the  
 4 extent that the question may ask him to reveal thoughts  
 5 or opinions about legislation in furtherance of the  
 6 legislative process, and you're asking about a specific  
 7 communication between Ms. Harless and Mr. Beuck.  
 8 MS. WESTFALL: Let me strike that  
 9 question.  
 10 Q. (By Ms. Westfall) What was the purpose of that  
 11 legislation?  
 12 A. The purpose was to -- Harris County had  
 13 concerns regarding the translation of those election  
 14 materials. They felt that because there were several  
 15 other counties that were now going to be required to  
 16 translate into these other languages, that there should  
 17 be a uniform translation across -- across the state.  
 18 Q. What is your understanding of why Harris County  
 19 decided that Representative Harless was the person to  
 20 carry that bill?  
 21 MR. SWEETEN: Objection, calls for  
 22 speculation.  
 23 Q. (By Ms. Westfall) You may answer.  
 24 A. I can't speak to that.  
 25 MS. WESTFALL: Mr. Sweeten, I would ask

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1 that you make your objections in a shorter fashion so  
 2 that there is not coaching of the witness.  
 3 MR. SWEETEN: Counsel, I just said,  
 4 "Objection, calls for speculation." How would you like  
 5 me to rephrase that?  
 6 MS. WESTFALL: "Objection, speculation."  
 7 MR. SWEETEN: Okay. I will shorten it to  
 8 that.  
 9 Q. (By Ms. Westfall) I believe you testified  
 10 earlier, and this was of interest to me the, the  
 11 difference between sponsoring and authoring a bill.  
 12 So when a bill comes from the Senate and  
 13 it comes to the House and it's being sponsored in the  
 14 House? Is that right? That's a correct term?  
 15 A. Yes. House -- we House sponsor the  
 16 legislation.  
 17 Q. How is it decided which member will be  
 18 sponsoring the Senate Bill?  
 19 A. From my experience, it is the committee, and  
 20 leadership will make that determination.  
 21 Q. Is it leadership in both the House and the  
 22 Senate decide who will carry that bill in House?  
 23 A. Typically, I would say it would just be the  
 24 House leadership makes that determination.  
 25 Q. And in the House, when you refer to leadership,

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1 who, other than the Speaker, is involved in that  
 2 decision?  
 3 A. I can't say. I don't know.  
 4 Q. Is it chiefly the decision of the Speaker?  
 5 MR. SWEETEN: Objection, calls for  
 6 speculation.  
 7 A. I don't know.  
 8 Q. (By Ms. Westfall) How many immigration-related  
 9 bills has Representative Harless sponsored, authored, or  
 10 co-sponsored during your employment with her office?  
 11 A. We had a -- one bill.  
 12 Q. Could you tell me about that bill?  
 13 A. Yes. It was a bill -- I believe it was called  
 14 a Sanctuary City Bill.  
 15 Q. What did Sanctuary City Bill do?  
 16 A. This was legislation she had filed in previous  
 17 sessions. It was -- it was not my focus this session,  
 18 so I'm not the expert on it. So I really -- the details  
 19 of the legislation, I know it's to -- I really don't  
 20 know the details on it, to be honest.  
 21 Q. Could you describe the basic purpose of the  
 22 bill?  
 23 A. The purpose of the bill was to --  
 24 MR. SWEETEN: I'm going to make sure  
 25 that -- with respect to this question, I'm going to

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1 object to it to the extent it calls for you to provide  
 2 information that's covered by the legislative privilege  
 3 which could be communications with Representative  
 4 Harless. With that, you can go ahead and answer.  
 5 MS. WESTFALL: Mr. Sweeten, are you taking  
 6 the position that questions related to the purpose of  
 7 legislation are covered by legislative privilege, so I  
 8 understand this for the record?  
 9 MR. SWEETEN: Just so it's clear, I'm  
 10 saying that any communications that he's had with  
 11 Representative Harless about the purpose of the bill  
 12 would be covered by legislative privilege. If you're  
 13 asking him based on the text of the bill or his general  
 14 understanding, I think that would be -- that's fair  
 15 game.  
 16 Q. (By Ms. Westfall) My question stands. What  
 17 was the purpose of the Sanctuary Cities Bill? You may  
 18 answer.  
 19 MR. SWEETEN: My instruction stands.  
 20 A. The purpose of the legislation was to prohibit  
 21 cities from providing a sanctuary regarding immigration  
 22 laws, federal immigration laws.  
 23 Q. (By Ms. Westfall) Could you explain that a  
 24 little bit further? It's not clear to me. Could you  
 25 describe it a little further?

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1 MS. WESTFALL: I want to note for the  
 2 record that the witness is pausing and thinking about  
 3 his answer.  
 4 A. The legislation was in response to cities that  
 5 were not enforcing immigration laws, and the legislation  
 6 was intended to -- to prohibit that.  
 7 Q. (By Ms. Westfall) And she sponsored this bill  
 8 in 2009; is that correct?  
 9 A. Yes.  
 10 Q. Had this bill been introduced prior to 2009 in  
 11 some way, shape, or form?  
 12 A. Yes.  
 13 Q. Who introduced it previously?  
 14 A. I -- I don't know.  
 15 Q. Do you know why Representative Harless  
 16 introduced the bill in 2009?  
 17 MR. SWEETEN: Objection, speculation.  
 18 Q. (By Ms. Westfall) You may answer.  
 19 A. Her constituents had requested it.  
 20 Q. What area does she represent?  
 21 A. Spring, Texas.  
 22 Q. Where is that?  
 23 A. Northwest Harris County.  
 24 Q. Northwest Harris County. Which of her  
 25 constituents asked her to sponsor the bill?

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1 MR. SWEETEN: Objection. I'm going to  
 2 instruct the witness not to answer to the extent that  
 3 that information reveals thoughts and opinions about  
 4 legislation or furtherance of the legislative process,  
 5 and it relates to communications between you and  
 6 Representative Harless, communications between  
 7 constituents and legislative staff or Representative  
 8 Harless, communications between legislators or  
 9 legislative staff.  
 10 With that cautionary instruction, you can  
 11 go ahead and answer to the extent you have an answer.  
 12 MS. WESTFALL: Mr. Sweeten, I want to  
 13 clarify whether you are including within the privilege a  
 14 promise that a legislature makes for a constituent to  
 15 sponsor a bill. Would you say that that is privileged?  
 16 MR. SWEETEN: I am saying that any  
 17 communications between constituents and a legislator  
 18 would be covered by the legislative privilege.  
 19 MS. WESTFALL: And that is about  
 20 legislation, generally, in either direction?  
 21 MR. SWEETEN: In either direction  
 22 regarding legislation, that's correct.  
 23 MS. WESTFALL: Court reporter, could you  
 24 read back the question?  
 25 (The requested portion was read by the

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1 reporter.)  
 2 A. I can't speak to an individual constituent who  
 3 asked. I know several have been in contact.  
 4 Q. (By Ms. Westfall) Could you tell me the  
 5 identity of the constituents?  
 6 MS. WESTFALL: And that's outside the  
 7 privilege, Mr. Sweeten.  
 8 A. The identity?  
 9 Q. (By Ms. Westfall) Who were these constituents?  
 10 A. Constituents. That's about -- I don't know the  
 11 individual identities of these -- these people.  
 12 Q. Were there any lobbyists who requested her to  
 13 sponsor the bill?  
 14 A. I don't know.  
 15 Q. Were there any interest groups that asked her  
 16 to sponsor the bill?  
 17 A. I don't know.  
 18 Q. Are you familiar with a group ALEC?  
 19 A. Yes.  
 20 Q. Did ALEC ask her to sponsor the bill?  
 21 A. I cannot speculate. I don't know.  
 22 Q. How many bills did she sponsor in 2009?  
 23 A. I think we sponsored around -- more than five  
 24 Senate bills, five to ten Senate bills. We authored  
 25 approximately ten House bills, 10 to 15.

<p style="text-align: center;">49</p> <p>1 Q. And could you remind me: Did she sponsor or</p> <p>2 author the Sanctuary Cities Bill in the House in 2009?</p> <p>3 A. She was an author. We had filed legislation on</p> <p>4 that.</p> <p>5 Q. Do you know why she was selected to carry the</p> <p>6 bill rather than Representative Solomons?</p> <p>7 A. Which bill?</p> <p>8 Q. Sanctuary Cities.</p> <p>9 A. There were several Sanctuary City bills last</p> <p>10 session. Representative Solomons, I believe, had one as</p> <p>11 well.</p> <p>12 Q. What happened to Representative Harless's</p> <p>13 Sanctuary Cities bill?</p> <p>14 A. It did not move.</p> <p>15 Q. Did not move out of committee?</p> <p>16 A. Correct.</p> <p>17 Q. What committee was it considered by?</p> <p>18 A. State Affairs.</p> <p>19 Q. Why did it not move out of committee?</p> <p>20 A. I can't speculate. I don't know.</p> <p>21 Q. Who was Chair of State Affairs at that time,</p> <p>22 committee?</p> <p>23 A. Byron Cook. Representative Byron Cook.</p> <p>24 Q. Is it generally the Chair who decides which</p> <p>25 bills move out of committee?</p>	<p style="text-align: center;">51</p> <p>1 process?</p> <p>2 A. Yes.</p> <p>3 Q. How do you ensure compliance with federal law</p> <p>4 in drafting legislation?</p> <p>5 A. The same as with Texas constitutional law. You</p> <p>6 study the federal law, as best you can, and consult with</p> <p>7 Texas Legislative Council.</p> <p>8 Q. Are you familiar with Section 5 of the Voting</p> <p>9 Rights Act?</p> <p>10 A. Yes.</p> <p>11 Q. When did you first learn about Section 5?</p> <p>12 A. Quite sometime ago. I can't say. Probably</p> <p>13 high school.</p> <p>14 Q. How does the Legislature ensure compliance with</p> <p>15 Section 5 of the Voting Rights Act?</p> <p>16 MR. SWEETEN: Objection, speculation.</p> <p>17 Q. (By Ms. Westfall) You may answer.</p> <p>18 A. Could you repeat the question?</p> <p>19 Q. How does the Legislature ensure compliance with</p> <p>20 Section 5?</p> <p>21 MR. SWEETEN: Same objection.</p> <p>22 A. By taking the same steps of studying the law</p> <p>23 and consulting with counsel.</p> <p>24 Q. (By Ms. Westfall) Do you believe that</p> <p>25 compliance with the Federal Voting Rights Act is an</p>
<p style="text-align: center;">50</p> <p>1 A. Typically.</p> <p>2 Q. Do you believe that compliance with the Texas</p> <p>3 Constitution is an important consideration in the</p> <p>4 law-making process?</p> <p>5 A. Yes.</p> <p>6 Q. How do you ensure that there is compliance with</p> <p>7 the Texas Constitution in drafting a bill?</p> <p>8 A. Reading the Constitution helps.</p> <p>9 Q. Take any other steps?</p> <p>10 A. Consulting with Texas Legislative Council.</p> <p>11 Q. Could you describe generally for me your role</p> <p>12 in drafting a bill between you and the Council?</p> <p>13 A. Generally speaking, there is an idea for</p> <p>14 legislation, and I take that legislation, the ideas, the</p> <p>15 general ideas, and request counsel to assist in drafting</p> <p>16 the legislation.</p> <p>17 Q. So the Texas Legislative Council does the</p> <p>18 actual -- provides the technical support in drafting the</p> <p>19 bill; is that correct?</p> <p>20 A. As well as legal.</p> <p>21 Q. And you provide the concept and get it to</p> <p>22 them? Is that how it works?</p> <p>23 A. Yes.</p> <p>24 Q. Do you believe that the compliance with federal</p> <p>25 law is an important consideration in the law-making</p>	<p style="text-align: center;">52</p> <p>1 important consideration in the law-making process?</p> <p>2 MR. SWEETEN: Objection, vague. Go ahead,</p> <p>3 you can answer.</p> <p>4 A. I believe following all laws is important, all</p> <p>5 federal law is important.</p> <p>6 Q. (By Ms. Westfall) Are there any particular</p> <p>7 steps that you take with regard to ensuring that</p> <p>8 election laws comply with Section 5, that you haven't</p> <p>9 already testified to?</p> <p>10 A. No.</p> <p>11 Q. What is Texas's current system for determining</p> <p>12 how to verify the identity of a voter at the polls?</p> <p>13 A. The current voting system.</p> <p>14 Q. Before SB 14 --</p> <p>15 A. Yes.</p> <p>16 Q. -- since that's not being implemented?</p> <p>17 A. A -- for regular voting, not early voting?</p> <p>18 Q. Let me withdraw the question. Strike the</p> <p>19 question. I will rephrase.</p> <p>20 What is the current system, under Texas</p> <p>21 law, for determining how to verify the identity of a</p> <p>22 voter who is voting in person on either early voting or</p> <p>23 on election day?</p> <p>24 A. I believe with early voting, there is a -- I</p> <p>25 show my driver's license when I early vote. That's</p>

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1 typically what I do. When you are voting on election  
2 day, you have the option of showing your registration  
3 card, your voter registration card, or there are a  
4 couple of other documents that you are able to show to  
5 verify your identity.

6 Q. What are those documents?

7 A. It's a pretty long list. I don't know. I've  
8 never used that. So I know there is a -- there's  
9 personal records of some sort.

10 Q. So when you're answering these questions, are  
11 you testifying based on your personal experience as a  
12 voter?

13 A. My personal experience? No. As well as what I  
14 know from the issue.

15 Q. Are there any problems with the current system  
16 you just described for verifying a voter's identity when  
17 he shows up at the polls on election day?

18 A. Yes, I think there are concerns.

19 Q. What are those concerns?

20 A. That an individual would be able to -- to vote  
21 and use someone else's identity.

22 Q. Are you aware of any times that that's occurred  
23 in Texas?

24 A. Yes, I believe there are examples.

25 Q. Could you tell me about what those examples

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1 are?

2 A. The specific cases, I can't say. I can't speak  
3 to.

4 Q. Do you know how many cases there have been?

5 A. No, I do not.

6 Q. Do you know how many allegations of in-person  
7 voting fraud there have been in Texas?

8 A. No, I do not.

9 Q. Do you know how many convictions of in-person  
10 voting fraud in Texas?

11 A. No, I don't have those numbers.

12 Q. Are there any other concerns with the current  
13 system for verifying a voter's identity that you haven't  
14 already testified about today?

15 MR. SWEETEN: Are you asking if he has  
16 concerns? Just to clarify the question. Any concerns?

17 A. My personal concerns?

18 Q. (By Ms. Westfall) Is the question -- you had  
19 testified that there were concerns with the system. I  
20 asked you whether there were concerns. Is the question  
21 not clear to you?

22 A. No. If you could --

23 Q. You said earlier that there were problems with  
24 the current system for verifying a voter's identity. Do  
25 you remember testifying about that?

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1 A. Yes.

2 Q. And then you just testified about in-person  
3 voter fraud, and we had some discussion about that,  
4 right?

5 A. Yes.

6 Q. Are there any other problems or concerns that  
7 the current system, in your view, fails to address?

8 A. Beyond somebody voting for somebody else?

9 Q. Correct.

10 A. I think that's the major concern.

11 Q. Okay.

12 A. That I'm aware of.

13 Q. That's the sum total of the problem, as you see  
14 it, with the current system; is that correct?

15 A. Well, I can't speak to the sum total. I know  
16 that's the -- the major -- the major issue.

17 Q. As you sit here today testifying, I want to  
18 know every single concern and problem with the current  
19 system, and that's my question. Does that clarify the  
20 question for you?

21 A. I believe I've answered it.

22 Q. Okay. You testified earlier that you started  
23 to work for Representative Harless in November of 2009,  
24 correct?

25 A. Correct.

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1 Q. Was there a time after you were hired by  
2 Representative Harless that you started to work on photo  
3 ID issues?

4 A. When did I begin working on photo ID issues?

5 Q. For Representative Harless.

6 A. For Representative Harless? We prefiled  
7 legislation, in the fall of 2010, so there about,  
8 around.

9 MS. WESTFALL: Could you mark this as U.S.  
10 Exhibit 4.

11 (Exhibit 4 marked for identification.)

12 MS. WESTFALL: Thank you.

13 Q. (By Ms. Westfall) You've been handed what's  
14 been marked U.S. 4. Take a look at it. Let me know  
15 when you've had a chance to review it.

16 A. (Viewing documents.)

17 Q. Have you had a chance to take a look?

18 A. Yes. This is the House Bill 112, the  
19 legislation we -- Representative Harless prefiled.

20 Q. Were you involved in developing this bill?

21 A. Yes.

22 Q. Were you involved in drafting this bill?

23 A. In the drafting process?

24 Q. Yes.

25 A. Yes.

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1 Q. Could you describe that process for me?  
 2 A. The process is as with other bills, as I  
 3 described earlier, the idea for the legislation was  
 4 brought up, and I researched the issue, and I contacted  
 5 Texas Legislative Council for assistance in drafting.  
 6 Q. Did you do anything else, in the drafting or  
 7 development process, for HB 112?  
 8 A. Beyond researching the issue and that's -- no.  
 9 Q. Thank you for your testimony.  
 10 Could you describe the basic provisions of  
 11 HB 112?  
 12 A. (Viewing documents.)  
 13 MS. WESTFALL: Please note for the record  
 14 that the witness is reviewing Exhibit 4.  
 15 A. Could you repeat -- you're asking the basic --  
 16 Q. (By Ms. Westfall) Could you describe the basic  
 17 provisions of HB 112?  
 18 A. Yes. There is -- this is the voter  
 19 identification legislation. There is a -- a voter must  
 20 present to an election officer one form of  
 21 identification. And then that lists -- those are, I  
 22 guess, what you would consider to be photo ID, or two  
 23 different forms of identification. Then that lists  
 24 several -- I believe that's -- that's the -- the list of  
 25 other documents that you would be able to show.

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1 Q. How long did it take to draft this bill?  
 2 A. I don't recall.  
 3 Q. Did it take more than three months?  
 4 A. I don't believe so. I don't think it took  
 5 longer than three months.  
 6 Q. How many meetings did you have with  
 7 Representative Harless about this bill?  
 8 A. Several.  
 9 Q. Less than ten?  
 10 A. I'd say five to ten.  
 11 Q. Did you have meetings about HB 112 in 2010,  
 12 prior to the filing in November of 2010?  
 13 A. It would be in the fall of 2010, early -- I'm  
 14 sorry, excuse me. Later summer, early fall.  
 15 Q. How long did it take to draft the bill with the  
 16 Texas Legislative Council?  
 17 A. I do not remember.  
 18 Q. A matter of weeks?  
 19 A. I think it was several weeks.  
 20 Q. How many communications did you have with the  
 21 Texas Legislative Council about HB 112?  
 22 A. No more than five.  
 23 Q. Did you consider any other -- turning your  
 24 attention to U.S. 4, did you consider any other,  
 25 including any other kinds of ID in this bill, as

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1 allowable by voters?  
 2 A. Additional forms of photo identification? No.  
 3 Q. Did you consider any other forms of nonphoto  
 4 identification?  
 5 A. No.  
 6 Q. So HB 112 allowed for two forms of nonphoto ID;  
 7 is that correct?  
 8 A. Yes.  
 9 Q. Does that establish a person's identity?  
 10 A. Would two forms of identification establish a  
 11 person's identity?  
 12 Q. That's the question, yes.  
 13 A. I believe it's -- I believe there's a greater  
 14 likelihood of identifying the person -- correctly  
 15 identifying the person more than current law under this  
 16 bill, yes.  
 17 Q. So the use of two forms of nonphoto ID would  
 18 increase the likelihood that you could confirm a voter's  
 19 identity; is that correct?  
 20 A. Yes, I believe it would.  
 21 Q. And that's why Representative Harless included  
 22 it in this bill; is that right?  
 23 MR. SWEETEN: Objection to the form. Also  
 24 objection to the fact that you're asking him to  
 25 speculate as to what Representative Harless believes and

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1 you're asking -- it implicates communications that he  
 2 may have had with Representative Harless. So to the  
 3 extent -- and so I'm going to object to privilege.  
 4 Do not answer that if your answer reveals  
 5 communications you've had with Representative Harless.  
 6 MS. WESTFALL: I'm gonna strike that  
 7 question. Actually, I'm not going to strike. I'm going  
 8 to leave it pending, because I'm going to move on that  
 9 question to compel.  
 10 Q. (By Ms. Westfall) I'm gonna ask you another  
 11 question. What was the purpose of allowing the use of  
 12 two nonphoto forms of ID in HB 112?  
 13 MR. SWEETEN: Again, do not reveal  
 14 communications that you've with Representative Harless  
 15 in answering that question.  
 16 MS. WESTFALL: Mr. Sweeten, I'm not asking  
 17 him to talk about communications. I'm asking him what  
 18 was the purpose of a particular provision in a  
 19 particular bill.  
 20 MR. SWEETEN: You're asking him what the  
 21 purpose of this bill is, is that the question?  
 22 MS. WESTFALL: Are you taking the position  
 23 that asking questions about the purpose of provisions in  
 24 legislation is protected by legislative privilege? Is  
 25 that your position?

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1 MR. SWEETEN: What I'm saying is, that if  
2 there's a discussion that he's had with Representative  
3 Harless, that he does not have to reveal that, and that  
4 is privileged. So to the extent that he can answer  
5 based upon his own testimony, I'm gonna let him -- on  
6 his own perception, I'm going to let him do that. But I  
7 will not let him reveal communications that he's had  
8 with Representative Harless.

9 MS. WESTFALL: That's abundantly clear,  
10 and I'm not -- that's not the question. So thank you  
11 for your testimony, Mr. Sweeten.

12 Q. (By Ms. Westfall) You may answer.

13 MR. SWEETEN: I'm not testifying. I'm  
14 trying to make sure that the record is clear, and I'm  
15 trying to make sure that the witness is clear on my  
16 instruction as to privilege. With that, go ahead.

17 MS. WESTFALL: Thank you.

18 Q. (By Ms. Westfall) You may answer.

19 A. Could you repeat the question?

20 Q. I certainly could.

21 What was the purpose of allowing the use  
22 of two forms of nonphoto ID in HB 112?

23 A. To improve the likelihood that the person  
24 voting is who they say they are.

25 Q. Turning your attention to Section 63.0101 on

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1 Page 5. Do you see that?

2 A. Uh-huh.

3 Q. And continuing on to Page 6, do you see that it  
4 allowed the use of driver's licenses that had not  
5 expired earlier than two years before the date of  
6 presentation?

7 A. Under Subsection 1?

8 Q. Correct.

9 A. Yes.

10 Q. Why was the two-year number selected?

11 A. I don't know.

12 Q. Do you see under Subsection 2 of that same  
13 section a reference to United States military  
14 identification cards?

15 A. Yes.

16 Q. Could you describe the form of identification  
17 cards that is described or referenced by that statement?

18 A. A United States military identification card?

19 Q. Yes. What kind of cards does that include?

20 A. I think that would be identification from the  
21 United States military. I can't say beyond that --

22 Q. Do you know --

23 A. -- what that would include.

24 Q. Do you know where this particular provision  
25 came from?

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1 A. I believe this language was from the  
2 legislation as from the 2009 legislation.

3 Q. And what was that bill?

4 A. I do not remember the bill number.

5 Q. Was much of this list of acceptable forms of ID  
6 from the 2009 bill?

7 A. Yes.

8 Q. I believe you testified that you were involved  
9 in development of HB 112?

10 A. Yes.

11 Q. Could you describe that process, to the extent  
12 you haven't already testified about it?

13 A. I believe I answered as my -- my involvement, I  
14 believe I already answered.

15 Q. So it's simply communications with  
16 Representative Harless on five occasions in -- or ten  
17 occasions in the fall of 2010; is that correct?

18 MR. SWEETEN: Objection, misstates his  
19 testimony.

20 Q. (By Ms. Westfall) You may answer.

21 A. My -- my involvement with House Bill 112, yes,  
22 conversations with Representative Harless, five to ten,  
23 approximately, researching the issue and communications  
24 with counsel.

25 Q. Were there any activities related to the

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1 development of the bill before the fall of 2010?

2 A. Activities? Could you be --

3 Q. Were you involved in developing the bill prior  
4 to the fall of 2010?

5 A. House Bill 112?

6 Q. Yes.

7 A. No.

8 Q. I believe you testified that you looked to the  
9 bill in 2009 as a model, in part or in whole, for  
10 HB 112; is that correct?

11 A. That's correct.

12 Q. Did you look at any other previous bills in  
13 drafting HB 112?

14 A. When I was researching the issue, I looked at  
15 previous legislation, so I believe 2007, 2009.

16 Q. Do you remember what parts of those previous  
17 bills you drew from in drafting HB 112?

18 A. No, I don't. The specifics on which parts, I  
19 don't remember.

20 Q. Did you look at any other states' photo ID laws  
21 in drafting HB 112?

22 A. In my research, yes, I did.

23 Q. Which states?

24 A. Specifically, the Indiana legislation on voter  
25 identification, the Georgia, were states that I looked

<p style="text-align: center;">65</p> <p>1 to.</p> <p>2 Q. Did anyone direct you to look at those states?</p> <p>3 MR. SWEETEN: Objection to the extent that</p> <p>4 it attempts to reveal communications between he and</p> <p>5 other legislative staff and/or Representative Harless.</p> <p>6 He can answer it if it does not implicate those</p> <p>7 communications or other communications I've articulated</p> <p>8 today.</p> <p>9 A. Did anybody direct me to look at those states</p> <p>10 specifically?</p> <p>11 Q. (By Ms. Westfall) Yes.</p> <p>12 A. I came to that conclusion on my own, after</p> <p>13 researching the issue, that those were two states I</p> <p>14 needed to look at.</p> <p>15 Q. Do you remember any provisions that you drew</p> <p>16 from the Georgia photo ID law to include in HB 112?</p> <p>17 A. No, I don't remember specifically.</p> <p>18 Q. Do you recall anything in the Georgia photo ID</p> <p>19 law that you rejected and did not include in HB 112?</p> <p>20 A. No.</p> <p>21 Q. Do you recall any aspect of the Indiana photo</p> <p>22 ID law that you included in HB 112?</p> <p>23 A. No, I don't know the specific provisions from</p> <p>24 the individual states.</p> <p>25 Q. Did you take any steps in the drafting process</p>	<p style="text-align: center;">67</p> <p>1 A. No, I have not.</p> <p>2 Q. (By Ms. Westfall) So you solely talked to</p> <p>3 Representative Harless, is that correct, as to</p> <p>4 legislators, about 112?</p> <p>5 A. That's correct.</p> <p>6 Q. Did you talk to any legislative staff in</p> <p>7 developing HB 112?</p> <p>8 A. Yes.</p> <p>9 Q. Who were those staff people?</p> <p>10 MR. SWEETEN: Same instruction. You can</p> <p>11 reveal who you talked to or the facts about the</p> <p>12 communication, but not the substance of the</p> <p>13 communication.</p> <p>14 Q. (By Ms. Westfall) You may answer.</p> <p>15 A. Okay. Senator Fraser's office and the</p> <p>16 Lieutenant Governor's Office.</p> <p>17 Q. Could you identify the particular staff person</p> <p>18 in Senator Fraser's office with whom you had</p> <p>19 communications about HB 112?</p> <p>20 A. Janice McCoy.</p> <p>21 MR. ROSENBERG: Would you speak up,</p> <p>22 please?</p> <p>23 THE WITNESS: I'm sorry.</p> <p>24 A. Janice McCoy.</p> <p>25 Q. (By Ms. Westfall) Was there anyone else in the</p>
<p style="text-align: center;">66</p> <p>1 or development of HB 112 as a result of looking to any</p> <p>2 states' other photo ID laws?</p> <p>3 A. Can you restate? I'm sorry.</p> <p>4 Q. Did you make any changes to HB 112 as a result</p> <p>5 of reviewing other states' photo ID laws?</p> <p>6 A. My primary model for this bill was the</p> <p>7 legislation from 2009. I know the -- those were taken</p> <p>8 into consideration when that was drafted in 2009. As</p> <p>9 far as my -- I can't -- I don't know.</p> <p>10 Q. Did you look to any models from any interest</p> <p>11 group or lobbyist in drafting HB 112?</p> <p>12 A. No.</p> <p>13 Q. Did you have any communications with other</p> <p>14 legislators other than Representative Harless, about</p> <p>15 HB 112?</p> <p>16 MR. SWEETEN: Can you read the question</p> <p>17 back.</p> <p>18 (The requested portion was read by the</p> <p>19 court reporter.)</p> <p>20 MR. SWEETEN: I'm going to instruct him</p> <p>21 not to reveal any communications that you've had. The</p> <p>22 fact of the communication, I will allow you to answer</p> <p>23 that.</p> <p>24 MS. WESTFALL: Thank you, Mr. Sweeten.</p> <p>25 MR. SWEETEN: You're welcome.</p>	<p style="text-align: center;">68</p> <p>1 office you had communications with? I'm sorry, in</p> <p>2 Senator Fraser's office?</p> <p>3 A. No.</p> <p>4 Q. How many communications did you have with</p> <p>5 Ms. McCoy?</p> <p>6 A. Less than five.</p> <p>7 Q. Were these communications in the fall of 2010?</p> <p>8 A. I don't remember.</p> <p>9 Q. Were any of these conversations in 2009?</p> <p>10 A. In 2009? No.</p> <p>11 Q. Were any of these conversations in the first</p> <p>12 half of 2010?</p> <p>13 A. With --</p> <p>14 Q. With Ms. McCoy?</p> <p>15 A. With Ms. -- no, no. The first half of -- no,</p> <p>16 2010, no.</p> <p>17 Q. Were the two of you the sole parties to these</p> <p>18 conversations?</p> <p>19 A. Yes.</p> <p>20 Q. Were these conversations conducted in person?</p> <p>21 A. No.</p> <p>22 Q. Were these conversation on the telephone?</p> <p>23 A. Yes.</p> <p>24 Q. Were any of these conversations on e-mail?</p> <p>25 A. Not that I remember.</p>

<p style="text-align: center;">69</p> <p>1 Q. Were any of these conversations on text?</p> <p>2 A. No.</p> <p>3 Q. And you just testified that you also had</p> <p>4 communications with a staff person from Mr. Dewhurst's</p> <p>5 office. Is that correct?</p> <p>6 A. Yes.</p> <p>7 Q. Who was that staff person?</p> <p>8 A. Bryan. Bryan Hebert.</p> <p>9 Q. H-e-b-e-r-t?</p> <p>10 A. Yes.</p> <p>11 Q. What is his title?</p> <p>12 A. I don't know his exact title.</p> <p>13 Q. Were these conversations in the fall of 2010?</p> <p>14 A. Yes.</p> <p>15 Q. How many conversations did you have with</p> <p>16 Mr. Hebert?</p> <p>17 A. Less than five.</p> <p>18 Q. Were the two of you the sole parties to those</p> <p>19 communications?</p> <p>20 A. Yes.</p> <p>21 Q. Were those communications in person?</p> <p>22 A. Yes.</p> <p>23 Q. Where was the location of those communications?</p> <p>24 A. In Mr. Hebert's office.</p> <p>25 Q. How long were the meetings?</p>	<p style="text-align: center;">71</p> <p>1 Q. Do you remember whether you had any other</p> <p>2 meetings with any other legislative staff or staff in</p> <p>3 the Governor's Office in 2010 regarding HB 112?</p> <p>4 A. No. That's all.</p> <p>5 Q. Did you have any other communications regarding</p> <p>6 HB 112 in which Representative Harless was present?</p> <p>7 A. I'm sorry. Can you repeat the question?</p> <p>8 Q. Any other communications -- any communications</p> <p>9 regarding HB 112 at which Representative Harless was</p> <p>10 present?</p> <p>11 A. Communications with myself and Representative</p> <p>12 Harless?</p> <p>13 Q. And a third party.</p> <p>14 A. No, I don't remember.</p> <p>15 Q. Did you have any communications with officials</p> <p>16 or legislators in other states in the fall of 2010</p> <p>17 regarding the development of HB 112?</p> <p>18 A. No.</p> <p>19 Q. Did you have any communications with anyone in</p> <p>20 Georgia regarding their photo ID law?</p> <p>21 A. No.</p> <p>22 Q. Did you have any communications with --</p> <p>23 A. I'm sorry. Regarding House Bill 112?</p> <p>24 Q. Correct.</p> <p>25 A. No, no communications.</p>
<p style="text-align: center;">70</p> <p>1 A. Less than 30 minutes.</p> <p>2 Q. Did you have any e-mail communication between</p> <p>3 the two of you after those meetings?</p> <p>4 A. Yes.</p> <p>5 Q. Have you produced those e-mails to your</p> <p>6 attorneys?</p> <p>7 A. I did not have those documents.</p> <p>8 Q. They no longer existed in your e-mail system?</p> <p>9 A. That's correct.</p> <p>10 Q. What happened to them?</p> <p>11 A. They were -- I don't know what happened to</p> <p>12 them. I do not have them. They were deleted.</p> <p>13 Q. Who would know what happened to those e-mails?</p> <p>14 A. I don't know.</p> <p>15 Q. Now that you remember you had e-mail --</p> <p>16 MR. SWEETEN: Can we work towards a break</p> <p>17 maybe in about five minutes? Just pretty soon we'd like</p> <p>18 to take a break.</p> <p>19 MS. WESTFALL: Certainly.</p> <p>20 Q. (By Ms. Westfall) Now that you remember you</p> <p>21 had e-mail with Mr. Hebert, did you have any e-mail</p> <p>22 communication with Ms. McCoy?</p> <p>23 A. In 2000 --</p> <p>24 Q. In 2010?</p> <p>25 A. No, not that I remember.</p>	<p style="text-align: center;">72</p> <p>1 Q. Did you have any communications with anyone</p> <p>2 anybody in Indiana regarding their law?</p> <p>3 A. No.</p> <p>4 Q. Did you have any communications with any</p> <p>5 interest groups or lobbyists concerning HB 112?</p> <p>6 A. No.</p> <p>7 Q. Did you have any communications with any</p> <p>8 interest group representing minority voters regarding</p> <p>9 the development of HB 112?</p> <p>10 A. No.</p> <p>11 Q. Did you have -- other than what you just</p> <p>12 testified about, did you have any discussions with</p> <p>13 anybody about the forms of ID to include in HB 112?</p> <p>14 MR. SWEETEN: Objection to the extent that</p> <p>15 you're asking to him to reveal communications that are</p> <p>16 specifically covered by the legislative privilege. I</p> <p>17 can go through those if you need to me to familiarize.</p> <p>18 But otherwise, are you familiar with what we're talking</p> <p>19 about?</p> <p>20 THE WITNESS: Yes.</p> <p>21 MR. SWEETEN: Okay. Then with that</p> <p>22 instruction, you can go ahead and answer Ms. Westfall's</p> <p>23 question.</p> <p>24 A. Okay. Could you repeat it?</p> <p>25 Q. (By Ms. Westfall) Sure. Did you have any</p>

<p style="text-align: center;">73</p> <p>1 discussions with anyone about the forms of ID to include</p> <p>2 in HB 112?</p> <p>3 A. Besides who I --</p> <p>4 Q. Besides the people you already testified about?</p> <p>5 A. No.</p> <p>6 Q. Conversations. Thank you.</p> <p>7 Mr. Sweeten, if you don't mind, I have</p> <p>8 about five more minutes just to get through the section.</p> <p>9 MR. SWEETEN: That's fine. Go ahead.</p> <p>10 MS. WESTFALL: And it will be a logical</p> <p>11 break.</p> <p>12 Q. (By Ms. Westfall) Did you analyze which</p> <p>13 registered voters did not possess any or all of the</p> <p>14 forms of ID identified in HB 112?</p> <p>15 A. No, I did not.</p> <p>16 Q. Did you read any research or analysis of voter</p> <p>17 ID to assist you in drafting HB 112, that you haven't</p> <p>18 already testified to?</p> <p>19 A. Yes, I did research the issue.</p> <p>20 Q. I believe you testified earlier that you had</p> <p>21 researched other states' laws?</p> <p>22 A. Yes.</p> <p>23 Q. Was there anything else, any other research</p> <p>24 that you conducted to assist you in new drafting HB 112?</p> <p>25 A. Yes, I -- yes.</p>	<p style="text-align: center;">75</p> <p>1 Q. (By Ms. Westfall) The question before that</p> <p>2 was: Did you conduct or instruct anyone to conduct an</p> <p>3 analysis of the impact of HB 112 on minority voters?</p> <p>4 A. Okay.</p> <p>5 Q. "Why didn't you?" was the question.</p> <p>6 A. And why didn't I? Okay.</p> <p>7 Q. Yes, thank you.</p> <p>8 A. For House Bill 112, I was not -- I was not</p> <p>9 asked.</p> <p>10 Q. You testified earlier that you understood this</p> <p>11 change would be subject to Section 5 of the Voting</p> <p>12 Rights Act, correct?</p> <p>13 A. I'm sorry. I don't remember that. Could</p> <p>14 you --</p> <p>15 Q. Is it your understanding or was -- I'm sorry,</p> <p>16 strike that.</p> <p>17 Was it your understanding, at the time of</p> <p>18 the drafting of HB 112, that it would be subject to</p> <p>19 preclearance for Section 5 of the Voting Rights Act?</p> <p>20 A. The voter ID legislation would be subject to</p> <p>21 preclearance, yes. Yes, that was my understanding.</p> <p>22 Q. Did you take any steps in response to your</p> <p>23 understanding of that?</p> <p>24 A. With House Bill 112?</p> <p>25 Q. Yes.</p>
<p style="text-align: center;">74</p> <p>1 Q. Tell me what that research consisted of.</p> <p>2 A. My research on voter ID generally consisted of</p> <p>3 law review articles; basically what I could get my hands</p> <p>4 on, as far as research goes.</p> <p>5 Q. Which law review articles did you review?</p> <p>6 A. I can't remember.</p> <p>7 Q. Do you remember the authors of the law review</p> <p>8 articles?</p> <p>9 A. No.</p> <p>10 Q. Do you remember the publications in which they</p> <p>11 were published?</p> <p>12 A. No.</p> <p>13 Q. Did you conduct or instruct anyone to conduct</p> <p>14 an analysis of the impact of HB 112 on minority voters?</p> <p>15 A. No.</p> <p>16 Q. Why didn't you?</p> <p>17 MS. WESTFALL: Please note for the record</p> <p>18 that the witness is thinking about a response.</p> <p>19 A. Can you repeat it?</p> <p>20 Q. (By Ms. Westfall) Certainly. Did you conduct</p> <p>21 or --</p> <p>22 MS. WESTFALL: Actually, court reporter,</p> <p>23 could you read back that question?</p> <p>24 (The requested portion was read by the</p> <p>25 court reporter.)</p>	<p style="text-align: center;">76</p> <p>1 A. With my research and my conversations and</p> <p>2 consulting with Legislative Council.</p> <p>3 Q. Were you directed not to analyze the impact of</p> <p>4 HB 112 on minority voters?</p> <p>5 MR. SWEETEN: Objection. Don't reveal any</p> <p>6 communications between legislators, staff, and you, or</p> <p>7 any of the other areas that we've discussed.</p> <p>8 THE WITNESS: Okay.</p> <p>9 Q. (By Ms. Westfall) To the extent you can</p> <p>10 answer, can you answer?</p> <p>11 A. Was I directed to not --</p> <p>12 Q. Analyze the impact of HB 112 on minority</p> <p>13 voters?</p> <p>14 A. I think --</p> <p>15 MR. SWEETEN: Again, if the answer to the</p> <p>16 question involves you revealing communications between a</p> <p>17 legislator, staff members, staff state agencies,</p> <p>18 including the Governor or Lieutenant Governor's Office</p> <p>19 or communications between the Texas Legislative Council,</p> <p>20 if that's the basis of your answer, do not reveal that.</p> <p>21 A. No, I was not directed.</p> <p>22 Q. (By Ms. Westfall) Is your answer you weren't</p> <p>23 directed or you're not answering because your counsel</p> <p>24 has instructed you not to answer?</p> <p>25 A. I'm sorry?</p>

<p style="text-align: center;">77</p> <p>1 Q. Are you not answering the question?</p> <p>2 A. No.</p> <p>3 Q. You are not able to answer the question?</p> <p>4 A. I am answering the question: That was not a</p> <p>5 directive.</p> <p>6 Q. Are you familiar with the concept of Spanish</p> <p>7 surname voter registration?</p> <p>8 A. I am now.</p> <p>9 Q. Were you at the time of the drafting of HB 112?</p> <p>10 A. No.</p> <p>11 Q. And just to go back to the -- to the testimony</p> <p>12 that you just provided about not having been instructed</p> <p>13 not to analyze the impact, that is your answer with</p> <p>14 regard to outside of any communications that your</p> <p>15 counsel is asserting is privileged; is that correct?</p> <p>16 A. I'm sorry. Could you --</p> <p>17 Q. I'm just trying to understand the answer that</p> <p>18 you just gave, the testimony that you just gave when I</p> <p>19 asked you: Were you directed not to analyze the impact</p> <p>20 of HB 112 on minority voters, and you said, "I was not</p> <p>21 instructed that." Is that correct?</p> <p>22 A. Yes.</p> <p>23 Q. But you were at --</p> <p>24 A. I'm sorry. I'm getting twisted.</p> <p>25 Q. That's okay. We're going to take a break</p>	<p style="text-align: center;">79</p> <p>1 minutes? How about that?</p> <p>2 Q. (By Ms. Westfall) What was the purpose of</p> <p>3 HB 112?</p> <p>4 MR. SWEETEN: Objection to the extent that</p> <p>5 that question calls for you to provide information about</p> <p>6 communications between legislators, legislative staff,</p> <p>7 or any of other enumerated areas. Do not provide an</p> <p>8 answer to that question if it does implicate those</p> <p>9 communications.</p> <p>10 A. Okay. I believe the purpose of House Bill 112</p> <p>11 is to improve the elections process by strengthening the</p> <p>12 identity requirements for voters.</p> <p>13 Q. (By Ms. Westfall) Did Representative Harless</p> <p>14 make any public statements concerning HB 112?</p> <p>15 A. I can't remember.</p> <p>16 Q. Was there a press release concerning HB 112?</p> <p>17 A. I can't remember.</p> <p>18 Q. Did HB 112 generate any support?</p> <p>19 A. Support?</p> <p>20 Q. For the bill from any source?</p> <p>21 MR. SWEETEN: You can answer it to the</p> <p>22 extent that it doesn't implicate the areas of</p> <p>23 communication that we previously discussed.</p> <p>24 THE WITNESS: Okay.</p> <p>25 MR. SWEETEN: If it does implicate those,</p>
<p style="text-align: center;">78</p> <p>1 shortly.</p> <p>2 Your counsel had just instructed you that</p> <p>3 you should not answer that question if it meant</p> <p>4 revealing any communications that you had --</p> <p>5 A. Right.</p> <p>6 Q. -- with Representative Harless, other</p> <p>7 legislators, or staff; is that correct?</p> <p>8 A. Yes.</p> <p>9 Q. So that question you did not answer with regard</p> <p>10 to any directives you had made -- you may have received</p> <p>11 from those individuals; is that correct?</p> <p>12 A. Okay.</p> <p>13 MR. SWEETEN: Do you need a take a minute</p> <p>14 and we can discuss the privilege assertion, if you --</p> <p>15 MS. WESTFALL: Mr. Sweeten, I have a</p> <p>16 question pending and you've instructed him, and I'm</p> <p>17 trying to clarify his testimony for the record.</p> <p>18 MR. SWEETEN: I understand. But I'm also</p> <p>19 -- I'm allowed, per the rules, to discuss with him the</p> <p>20 assertion of privilege when appropriate. This is</p> <p>21 certainly a time -- the entire premise of your question</p> <p>22 is based upon privilege. I can talk with him about that</p> <p>23 assertion.</p> <p>24 MS. WESTFALL: Why don't we move on and</p> <p>25 finish these questions, and we can take a break in five</p>	<p style="text-align: center;">80</p> <p>1 do not provide an answer to that question.</p> <p>2 A. The question again. Did we receive positive</p> <p>3 supportive --</p> <p>4 Q. (By Ms. Westfall) Did it generate any support</p> <p>5 from any source?</p> <p>6 A. Positive comments.</p> <p>7 Q. Yeah. Support would be positive, not negative.</p> <p>8 A. Yes. Yes.</p> <p>9 Q. And from what sources?</p> <p>10 A. Constituents.</p> <p>11 Q. Who were those constituents?</p> <p>12 MR. SWEETEN: I'm going to instruct you</p> <p>13 not to answer communications because I think it would</p> <p>14 reveal communications between you, your office, and</p> <p>15 constituents.</p> <p>16 MS. WESTFALL: Are you not -- are you</p> <p>17 instructing him not to identify constituents? Because</p> <p>18 that a privilege log issue, and I need to have that</p> <p>19 answered today, Mr. Sweeten.</p> <p>20 MR. SWEETEN: What I'm telling you is that</p> <p>21 the way you've come into this question, which is "what</p> <p>22 did you talk about," and now you're asking that.</p> <p>23 I mean, I -- as far as -- as I've told</p> <p>24 you, he can provide information about the fact that the</p> <p>25 conversation occurred or that he received -- or with</p>

<p style="text-align: center;">81</p> <p>1 whom he spoke. But he's not going to reveal</p> <p>2 communications and the substance of those communication</p> <p>3 with constituents as --</p> <p>4 MS. WESTFALL: A privilege log includes a</p> <p>5 general generic description of the subject matter of the</p> <p>6 communication, does it not, Mr. Sweeten?</p> <p>7 MR. SWEETEN: I think a general</p> <p>8 description, yes. Now, you've asked him, "Did you get</p> <p>9 supportive constituent comments," and I think we're</p> <p>10 really beyond the general description of it.</p> <p>11 MS. WESTFALL: That's extremely general,</p> <p>12 in my mind. I would like to know for the record whether</p> <p>13 you are refusing to provide a very basic standard entry</p> <p>14 in a privilege log, which is: Who made the</p> <p>15 communication, generally what it was about, and who</p> <p>16 received it? And right now, I have an extremely generic</p> <p>17 description of the communication, which was support for</p> <p>18 a bill, and I have the recipient, who was the sender.</p> <p>19 Who was the constituent is my question.</p> <p>20 MR. SWEETEN: Yeah, I think the way you</p> <p>21 phrased the question, I think that you're asking him to</p> <p>22 reveal communications regarding Senate Bill 14, and</p> <p>23 you're asking him about the substance of those. I'm</p> <p>24 going to instruct him not to answer that question.</p> <p>25 MS. WESTFALL: And that's with regard to</p>	<p style="text-align: center;">83</p> <p>1 Q. Was it the Select Committee on Voter ID?</p> <p>2 A. I believe so.</p> <p>3 Q. What happened to it after that?</p> <p>4 A. It did not move forward.</p> <p>5 Q. Okay.</p> <p>6 MR. SWEETEN: Let's go ahead and take a</p> <p>7 break.</p> <p>8 MS. WESTFALL: Oh, let me ask one</p> <p>9 question.</p> <p>10 Q. (By Ms. Westfall) Did --</p> <p>11 MS. WESTFALL: Actually, let's take a</p> <p>12 break.</p> <p>13 (Recess 11:43 a.m. to 12:01 p.m.)</p> <p>14 Q. (By Ms. Westfall) Could you describe the</p> <p>15 record retention policy in Representative Harless's</p> <p>16 office?</p> <p>17 A. There is a -- e-mails -- the Texas Legislative</p> <p>18 Council runs the -- the e-mail system -- are typically</p> <p>19 delete every 30 days. We -- I archive materials. You</p> <p>20 have to archive materials in order for them to not be</p> <p>21 deleted.</p> <p>22 Q. Did you take any steps to archive materials</p> <p>23 related to voter ID?</p> <p>24 A. Yes.</p> <p>25 Q. When did you take those steps?</p>
<p style="text-align: center;">82</p> <p>1 all supporters, not just constituents?</p> <p>2 MR. SWEETEN: It's with respect to all</p> <p>3 constituents. It's not -- that's part of what we've</p> <p>4 asserted in the court documents, as well as today, is</p> <p>5 privileged. It's communications between constituents</p> <p>6 and Representative Harless's office, which would include</p> <p>7 Mr. Beuck.</p> <p>8 Q. (By Ms. Westfall) Was there any support from</p> <p>9 any interest groups for HB 112?</p> <p>10 A. Could you be more specific on interest group?</p> <p>11 Q. A group, an organization of people. Were there</p> <p>12 any organizations of people, nonprofit, for profit,</p> <p>13 lobbyists, other groups that expressed support for</p> <p>14 HB 112?</p> <p>15 A. I can't remember.</p> <p>16 Q. And the bill was introduced in 2010, correct?</p> <p>17 A. Yes.</p> <p>18 Q. It's years ago, right? By my math. Am I</p> <p>19 right?</p> <p>20 A. Correct.</p> <p>21 Q. After it was filed -- after HB 112 was filed in</p> <p>22 November 2010, what happened to the bill?</p> <p>23 A. The bill did not move forward.</p> <p>24 Q. Was it referred to a committee?</p> <p>25 A. I believe it was referred to a committee.</p>	<p style="text-align: center;">84</p> <p>1 A. The -- I saved the initial archive, I believe,</p> <p>2 was a communication from the Attorney General's Office.</p> <p>3 Q. So that was this year, in 2012?</p> <p>4 A. Yes.</p> <p>5 Q. Did you archive any photo ID-related materials</p> <p>6 prior to 2012?</p> <p>7 A. Yes, I did have some.</p> <p>8 Q. What were those materials?</p> <p>9 A. My documents and e-mails and electronic files.</p> <p>10 Q. Where did you save those files?</p> <p>11 A. They were located -- the electronic files were</p> <p>12 on the X drive, the e-mails were in my e-mail archive,</p> <p>13 and the documents were located in the file.</p> <p>14 Q. What was the approximate date on which you</p> <p>15 started to archive those materials?</p> <p>16 A. Really, from the beginning of the Senate Bill</p> <p>17 14, the important documents, the documents that I</p> <p>18 believed needed to be saved, they were, beginning with</p> <p>19 the committee hearing on Senate Bill 14.</p> <p>20 Q. Did you start to archive bills related to the</p> <p>21 development of Senate Bill 14 at the end of 2010,</p> <p>22 beginning of 2011?</p> <p>23 A. I don't -- could you repeat it? The documents</p> <p>24 in preparation for Senate Bill 14 --</p> <p>25 Q. That is correct.</p>

<p style="text-align: center;">89</p> <p>1 A. It's possible there could be some other --</p> <p>2 other constituent communication letters and that type of</p> <p>3 thing. I can't say specifically.</p> <p>4 Q. Was there any communication with Mr. Paul</p> <p>5 Bettencourt and Representative Harless or your office</p> <p>6 concerning HB 112?</p> <p>7 A. Not to my knowledge.</p> <p>8 Q. Was there any communication between any member</p> <p>9 of the King Street Patriots and Representative Harless</p> <p>10 or anyone in her office concerning HB 112?</p> <p>11 A. Not to my knowledge.</p> <p>12 Q. Was there any communication between Catherine</p> <p>13 Engelbrecht and Representative Harless or anyone in her</p> <p>14 office concerning HB 112?</p> <p>15 A. Not to my knowledge.</p> <p>16 Q. Who would know whether these communications</p> <p>17 were made in your office besides you?</p> <p>18 A. Who would be the best judge of who has</p> <p>19 communicated with Representative Harless? I believe</p> <p>20 Representative Harless.</p> <p>21 Q. Would anyone else besides her know?</p> <p>22 A. I believe that's probably the most appropriate</p> <p>23 person.</p> <p>24 Q. Were there any communications between anyone at</p> <p>25 the American Legislative Exchange Council, otherwise</p>	<p style="text-align: center;">91</p> <p>1 A. My thought is that it's an item that needs</p> <p>2 immediate attention.</p> <p>3 Q. (By MS. WESTFALL) Turning back to the</p> <p>4 newsletters that were sent to the constituents regarding</p> <p>5 HB 112 that you just testified about, could you describe</p> <p>6 the substance of that communication?</p> <p>7 MR. SWEETEN: I'm going to instruct you</p> <p>8 not to provide and reveal information regarding the</p> <p>9 substance of correspondence between Representative</p> <p>10 Harless's office and constituents.</p> <p>11 MS. WESTFALL: Just to clarify, you are</p> <p>12 taking the position that communications sent in to a</p> <p>13 large number of constituents, a mass form mailing, to</p> <p>14 lots and lots of people, falls within legislative</p> <p>15 privilege? Is that right, Mr. Sweeten?</p> <p>16 MR. SWEETEN: Well, I mean, I think I've</p> <p>17 been clear on the fact that if it's a public record,</p> <p>18 including committee hearings, House Floor proceedings</p> <p>19 debates, public speeches, that sort of thing. We're</p> <p>20 talking about -- if you're asking about mass mailings, I</p> <p>21 mean, there would probably be -- we'd have to have a</p> <p>22 discussion. Okay. I think at this point, since -- if</p> <p>23 you're talking about a mass mailing, we're going to</p> <p>24 allow him to answer questions about that, because I</p> <p>25 think that falls within, sort of, more of the public</p>
<p style="text-align: center;">90</p> <p>1 known as ALEC, and Representative Harless or anyone at</p> <p>2 her office concerning HB 112?</p> <p>3 A. I don't know. Not to my knowledge.</p> <p>4 Q. Would Representative Harless be the only one</p> <p>5 who would be able to answer that question?</p> <p>6 A. I'm answering these questions based on my</p> <p>7 knowledge of who is -- I did not have a conversation</p> <p>8 with them, and I can't speak for Representative Harless.</p> <p>9 Q. Thank you.</p> <p>10 What does the term Legislative Emergency</p> <p>11 mean within the Texas Legislature?</p> <p>12 A. An emergency item as declared, as issued by</p> <p>13 Governor?</p> <p>14 Q. (Nods head yes.)</p> <p>15 A. Typically, an emergency item is not subject to</p> <p>16 the rules, the calendar rules associated with</p> <p>17 nonemergency item legislation.</p> <p>18 Q. What types of bills, typically, are emergency</p> <p>19 legislation?</p> <p>20 A. It varies. Since I've been at the Capitol,</p> <p>21 there's local bills that -- it's entirely up to the</p> <p>22 Governor. It varies.</p> <p>23 Q. What is your understanding of the criteria for</p> <p>24 becoming emergency legislation?</p> <p>25 MR. SWEETEN: Objection, speculation.</p>	<p style="text-align: center;">92</p> <p>1 record.</p> <p>2 MS. WESTFALL: And I believe he testified</p> <p>3 it was a newsletter. Have you produced those</p> <p>4 newsletters in this litigation to us? Are they on your</p> <p>5 privilege log?</p> <p>6 MR. SWEETEN: We can check that.</p> <p>7 MS. WESTFALL: To extent that they haven't</p> <p>8 been produced, since you're agreeing that they're not</p> <p>9 privileged, I ask they be produced immediately.</p> <p>10 MR. SWEETEN: Okay.</p> <p>11 Q. (By Ms. Westfall) And what was the substance</p> <p>12 of communication regarding HB 112 in the newsletter you</p> <p>13 just testified about?</p> <p>14 A. Okay. The -- as I remember it, there was a --</p> <p>15 I believe there was a newsletter which contained the</p> <p>16 bills that we prefiled.</p> <p>17 Q. Did it describe HB '12?</p> <p>18 A. Briefly, yes, I think it did.</p> <p>19 Q. What did it say?</p> <p>20 A. I can't remember without -- I can't remember.</p> <p>21 It briefly described that it was a -- I'm not going to</p> <p>22 speculate. I can't remember.</p> <p>23 Q. Did it talk about the purposes of HB '12?</p> <p>24 A. The basic purpose, yes, I think it did.</p> <p>25 Q. Do you recall what it said?</p>

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1 A. No, I don't.  
 2 Q. Would it refresh your recollection to have that  
 3 document in front of you?  
 4 A. You know, it might. I can -- I believe it said  
 5 it was a photo identification bill. It was a fairly  
 6 short newsletter briefly describing the bills that we  
 7 prefled.  
 8 Q. Was photo ID declared to be a legislative  
 9 emergency for the 82nd Legislature?  
 10 A. Yes, it was.  
 11 Q. Do you know how that decision was made?  
 12 A. No, I do not.  
 13 Q. Were you at all involved in that decision?  
 14 A. No, I was not.  
 15 Q. Did you attend any meetings regarding that  
 16 decision?  
 17 A. No.  
 18 Q. Did you see any written materials about that  
 19 decision?  
 20 A. Other than the Governor's proclamation, no.  
 21 Q. Did you receive any e-mail on that subject?  
 22 A. News reports.  
 23 Q. Are you aware of any communications in which  
 24 you were involved regarding declaring photo ID  
 25 legislative emergency in the 82nd Congress at which

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1 Representative Harless was not present?  
 2 A. Go back. I'm sorry.  
 3 Q. Sorry. I'm going to strike that question,  
 4 because it was very long.  
 5 Are you aware of any communications  
 6 regarding declaring photo ID to be a legislative  
 7 emergency in which Representative Harless did not  
 8 participate?  
 9 MR. SWEETEN: Objection, vague. Go ahead.  
 10 A. Okay. Meetings where she did not -- meetings  
 11 that went on where she did not participate. No, I'm not  
 12 may.  
 13 Q. (By MS. WESTFALL) Why was voter ID a  
 14 legislative emergency?  
 15 MR. SWEETEN: Objection, speculation.  
 16 A. That would be speculating. The Governor's  
 17 decision.  
 18 Q. (By MS. WESTFALL) What was the purpose of  
 19 declaring a legislative emergency?  
 20 MR. SWEETEN: Same objection.  
 21 A. I can't speak for to purpose. I can tell you  
 22 what that effect is, but I can't speak to the purpose.  
 23 Q. (By MS. WESTFALL) Was any election set to  
 24 occur within the first 60 days of 2011?  
 25 A. I'm sorry?

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1 Q. Were there any elections scheduled to be held  
 2 in the first 60 days of the legislative session in 2011?  
 3 A. I don't remember.  
 4 Q. Are you aware of anything that made SB 14  
 5 urgent for the legislators' consideration in 2011?  
 6 A. The concerns -- I mentioned it earlier when we  
 7 were talking about the intent of House Bill 112, the  
 8 concerns of -- regarding the integrity of the elections  
 9 process.  
 10 Q. Is there any other reason why photo ID was such  
 11 a high priority for the Governor, that you're aware of?  
 12 A. Not that I'm aware of.  
 13 Q. Was Representative Harless the House sponsor of  
 14 SB 14?  
 15 A. Yes.  
 16 Q. And when did you learn that Representative  
 17 Harless would be the sponsor of the SB 14?  
 18 MR. SWEETEN: Caution the witness not to  
 19 reveal communications between -- in the areas that I've  
 20 already described. You can rely upon information  
 21 contained within the public record, as we have already  
 22 outlined as well. Go ahead.  
 23 A. I first learned she was going to be the House  
 24 sponsor in a press release from Chairman Bonnen,  
 25 B-o-n-n-e-n.

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1 Q. (By MS. WESTFALL) When was that press release?  
 2 A. February, I believe. I don't remember the  
 3 date. Some point in February.  
 4 Q. That was -- your testimony is, you had no idea  
 5 she was sponsoring the bill until you saw a press  
 6 release?  
 7 A. That was my first knowledge of it, yes.  
 8 Q. Did you have any communications at all  
 9 regarding Representative Harless's sponsorship of SB  
 10 14?  
 11 MR. SWEETEN: Can you read the question  
 12 back, please.  
 13 (The requested portion was read by the  
 14 court reporter.)  
 15 MR. SWEETEN: Okay. I'm going to instruct  
 16 the witness that to the extent -- and I'm going to  
 17 object to the question. But to an extent that your  
 18 answer would reveal thoughts and opinions about  
 19 legislation or in furtherance of the legislative  
 20 process, do not reveal communications between  
 21 legislators and staff members, communications between  
 22 legislators and other legislators and their staff,  
 23 communication between constituents and legislative  
 24 staff, communications between legislative staff and  
 25 state agencies, including the Governor and Lieutenant

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1 Governor's Office, and communications between  
 2 legislators' staff and the Texas Legislative Council.  
 3 To the extent you can answer it without  
 4 revealing those communications, you are free to do so.  
 5 MS. WESTFALL: And Mr. Sweeten, to  
 6 clarify, you are not objecting to him testifying about  
 7 the fact that a communication occurred, because that is  
 8 not privileged, correct?  
 9 MR. SWEETEN: Counsel, as this deposition  
 10 has proceeded, I have allowed you to establish the fact  
 11 of the communication, and I will continue to do so.  
 12 MS. WESTFALL: Thank you. Thank you.  
 13 Q. (By MS. WESTFALL Can you answer my question?  
 14 A. Yes. Yes. I did have communications.  
 15 Q. How many?  
 16 A. Less than ten.  
 17 Q. When were those communications held?  
 18 A. January, February of 2011.  
 19 Q. Who was a party to those communications?  
 20 A. Representative Harless.  
 21 Q. Anybody else?  
 22 A. Senator Fraser's office.  
 23 Q. Are you referring to the staff person you  
 24 testified?  
 25 A. Yes. Yes. Janice McCoy.

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1 Q. Janice --  
 2 A. Janice McCoy.  
 3 Q. Were all ten of these discussions with --  
 4 A. It wasn't exactly ten.  
 5 Q. I'm sorry. Were these discussions about  
 6 Representative Harless sponsoring SB 14 with  
 7 Representative Harless, you, and Ms. McCoy? All of  
 8 them?  
 9 A. No. No. No, that's not what I --  
 10 Q. Maybe -- why don't we start with the first  
 11 communication about --  
 12 A. Okay.  
 13 Q. -- that you were involved in.  
 14 A. My communications with Representative Harless.  
 15 Q. And was that in January 2011?  
 16 A. I would say January and February.  
 17 Q. Were those communications in person?  
 18 A. Yes.  
 19 Q. Were those meetings in her office?  
 20 A. Yes.  
 21 Q. Were they all in her office?  
 22 A. Yes, we did have -- I believe we had a phone  
 23 conversation as well.  
 24 Q. Did you have any e-mail communication with  
 25 Representative Harless about her sponsorship of SB 14?

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1 A. Not that I remember.  
 2 Q. Did you have any meetings with Representative  
 3 Harless and Ms. McCoy?  
 4 A. Not that I remember.  
 5 Q. Did you have any meetings just with Ms. McCoy?  
 6 A. I had a phone conversation.  
 7 Q. Did you only have one?  
 8 A. At the most, two. I can remember one. I would  
 9 say at the most two.  
 10 Q. When were these phone conversations?  
 11 A. January and February.  
 12 Q. How long were the phone conversations?  
 13 A. Brief.  
 14 Q. And just to make the record, Mr. Sweeten, what  
 15 were the conversations about?  
 16 MR. SWEETEN: Objection. Do not reveal  
 17 the content of those communications, to the extent it  
 18 would -- if it would implicate legislative privilege.  
 19 I'm going to instruct you not to answer that question.  
 20 Q. (By MS. WESTFALL And what were the  
 21 conversations you had with Representative Harless about  
 22 regarding her sponsorship of SB 14?  
 23 MR. SWEETEN: The same objection. It  
 24 calls for him to reveal legislative privileged  
 25 information.

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1 Q. (By Ms. Westfall) Is it your testimony there  
 2 were no e-mail whatsoever regarding -- that you were  
 3 aware of or party to involving Representative Harless's  
 4 sponsorship of SB 14?  
 5 A. Not that I remember.  
 6 Q. Did you have any communications with the  
 7 Governor's Office, the Lieutenant Governor's Office,  
 8 regarding Representative Harless's sponsorship of SB 14?  
 9 MR. SWEETEN: Again, don't reveal the  
 10 content of the conversation, but you can discuss if you  
 11 had such conversations with those offices.  
 12 A. The Lieutenant Governor's Office.  
 13 Q. (By MS. WESTFALL) Was it a staff person in that  
 14 office that you had the communication with?  
 15 A. Yes.  
 16 Q. Who was the staff person?  
 17 A. Bryan, Bryan Hebert.  
 18 Q. How many communications did you have with him?  
 19 A. One.  
 20 Q. When were these communications -- that  
 21 communication? I'm sorry.  
 22 A. February, January of 2011.  
 23 Q. Was that a phone call?  
 24 A. Yes.  
 25 Q. What was it about?

<p style="text-align: center;">101</p> <p>1 A. I can't speak to that without revealing --</p> <p>2 without the privilege.</p> <p>3 MR. SWEETEN: Objection, it calls for him</p> <p>4 to reveal matters that are legislative privileged.</p> <p>5 Q. (By MS. WESTFALL) Did you have any</p> <p>6 communications with the Department of Public Safety</p> <p>7 regarding SB 14 and Representative Harless's sponsorship</p> <p>8 of that bill?</p> <p>9 MR. SWEETEN: Can you read that back? I'm</p> <p>10 sorry, I didn't get that whole question.</p> <p>11 (The requested portion read back by the</p> <p>12 reporter.)</p> <p>13 MR. SWEETEN: Don't reveal</p> <p>14 communications. You can reveal whether or not such a</p> <p>15 conversation -- if a conversation at that time occurred.</p> <p>16 A. No.</p> <p>17 Q. (By Ms. Westfall) Did you have any such</p> <p>18 conversations with anyone from the Secretary of State's</p> <p>19 Office?</p> <p>20 MR. SWEETEN: The same instruction.</p> <p>21 A. No.</p> <p>22 Q. (By Ms. Westfall) Were you involved in the</p> <p>23 development of drafting of SB 14?</p> <p>24 A. Yes.</p> <p>25 Q. Can you describe your role in development of</p>	<p style="text-align: center;">103</p> <p>1 Q. Who were those members or staff?</p> <p>2 A. The two previous staff I've mentioned with</p> <p>3 Senator Fraser's office and the Lieutenant Governor's</p> <p>4 Office. I also had conversations with the Speaker's</p> <p>5 office, Meredith Fowler.</p> <p>6 Q. What's her title with Speaker Straus?</p> <p>7 A. She's a policy analyst. I don't know her</p> <p>8 title.</p> <p>9 Q. Anybody else?</p> <p>10 A. Steven Schar is the committee clerk for the --</p> <p>11 the Select Committee on Voter Identification. I had</p> <p>12 communications with him as well.</p> <p>13 Q. So how did the development work amongst this</p> <p>14 group you just identified?</p> <p>15 MR. SWEETEN: Don't reveal the</p> <p>16 communications that occurred between you and anyone in</p> <p>17 those offices that you've mentioned, but to the extent</p> <p>18 you can answer it without doing so, you can answer.</p> <p>19 THE WITNESS: Okay.</p> <p>20 A. The process, when it came over and the Senate</p> <p>21 Bill 14 came over from the Senate, Representative</p> <p>22 Harless was asked to be the House sponsor. I then went</p> <p>23 about my job of seeing the legislation, helping her with</p> <p>24 moving the legislation through the process.</p> <p>25 Q. (By Ms. Westfall) Did you have any involvement</p>
<p style="text-align: center;">102</p> <p>1 SB 14?</p> <p>2 A. I was -- my responsibility was to research the</p> <p>3 issue, review past legislation, and to work with the</p> <p>4 Texas Legislative Council on of drafting the</p> <p>5 legislation.</p> <p>6 Q. When did you start undertaking those</p> <p>7 activities?</p> <p>8 A. With regard to Senate Bill 14?</p> <p>9 Q. Yes.</p> <p>10 A. I think that would have been late -- late</p> <p>11 February. When it was determined that Representative</p> <p>12 Harless would be the sponsor, that's when I actually</p> <p>13 started working on Senate Bill 14.</p> <p>14 Q. How did you come to have that responsibility</p> <p>15 for developing SB 14?</p> <p>16 MR. SWEETEN: Don't reveal any</p> <p>17 communications, but if you can do so without revealing</p> <p>18 those, you can go ahead and answer the question.</p> <p>19 A. As her chief of staff, my responsibilities</p> <p>20 include legislation. That's my primary responsibility</p> <p>21 during the legislative sessions, to help with her</p> <p>22 legislative package.</p> <p>23 Q. (By MS. WESTFALL) Did you work with other staff</p> <p>24 people or members in developing SB 14?</p> <p>25 A. Yes.</p>	<p style="text-align: center;">104</p> <p>1 with SB 14 before it arrived in the House?</p> <p>2 A. No, I did not.</p> <p>3 Q. Did Representative Harless?</p> <p>4 A. Not to my knowledge. I can't speak for her.</p> <p>5 Q. Are you aware of any discussions about how to</p> <p>6 structure or draft the ID requirements or the allowable</p> <p>7 forms of ID under SB 14?</p> <p>8 MR. SWEETEN: Don't reveal any</p> <p>9 communications between the legislators or their staff in</p> <p>10 answering this question. If you -- go ahead.</p> <p>11 A. The -- I'm sorry. Could you repeat it?</p> <p>12 Q. Certainly.</p> <p>13 A. It's the forms of identification, the</p> <p>14 discussions behind which ones to --</p> <p>15 Q. (Nods head yes.)</p> <p>16 A. No, I'm not aware of it, not to my knowledge.</p> <p>17 Q. So you just got the bill from the Senate, and</p> <p>18 you didn't talk about the forms of ID that were</p> <p>19 required; is that right?</p> <p>20 MR. SWEETEN: Objection. You're asking</p> <p>21 him to reveal the communications. You're asking him,</p> <p>22 did he discuss the forms of ID, which is a</p> <p>23 particularized conversation about Senate Bill 14;</p> <p>24 therefore, I'm going to instruct him not to answer that</p> <p>25 question.</p>

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1 Q. (By Ms. Westfall) Who were the people who know  
2 who could tell us about the ID -- strike that.  
3 Other than the staff that you've just  
4 listed, are there any other people who could -- with  
5 information about the types of allowable forms of ID  
6 that were considered to be included in SB 14 when it  
7 arrived in the House?  
8 A. You're asking before it arrived in the House  
9 who was involved in --  
10 Q. No, when it arrived in the House.  
11 A. Okay. When it arrived in the House, who had --  
12 the staff?  
13 Q. (Nods head yes.)  
14 A. Okay. And you asked if there was anybody else?  
15 Q. (Nods head yes.)  
16 A. No.  
17 Q. Did you have discussions about the form of ID  
18 to include in SB 14?  
19 MR. SWEETEN: I'm going to instruct him  
20 not to answer that. I think that you're asking him  
21 about the specific communication which is legislatively  
22 privileged.  
23 Q. (By Ms. Westfall) Are you aware of whether  
24 Representative Harless had any discussions about the  
25 forms of ID to include in SB 14?

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1 A. I can't -- I can't say that. I can't speak for  
2 her. I don't know.  
3 Q. Are you aware of any written communications  
4 about the forms of ID that were included in SB 14?  
5 A. Other than what was in the bill, no.  
6 Q. There was no e-mail on this topic at all?  
7 A. On the --  
8 Q. Forms of ID to include in SB 14?  
9 A. Not that I remember.  
10 Q. Who would know the answer to that question?  
11 A. I can't speak for other people. I don't know.  
12 Q. Can you describe the drafting process for  
13 SB 14?  
14 A. The bill, as it came over from the Senate,  
15 there were several amendments that were added on in the  
16 Senate. The bill that we had in committee was -- was  
17 the product of the Senate and their amendments on the  
18 floor, and that -- that was the -- that was the drafting  
19 process, was rolling those -- those amendments in.  
20 Q. So that was kind of like technical in nature?  
21 A. Technical, yes. And there were also changes  
22 that we had made.  
23 Q. Did you have communications with the  
24 Legislative Council back and forth with drafts of SB 14  
25 when it arrived in the House?

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1 A. Yes.  
2 Q. How many drafts did you exchange?  
3 A. Two to three.  
4 Q. When were those drafts exchanged?  
5 A. February.  
6 Q. Who was the person at the Legislative Council  
7 with whom you communicated?  
8 A. Jennifer is her first name, I believe.  
9 Q. Jennifer Jackson?  
10 A. Yes. Thank you.  
11 Q. She was the sole person you had communications  
12 with at the Council?  
13 A. Yes.  
14 Q. Were the other staff people you just listed  
15 earlier involved in those communications as well; i.e.,  
16 Ms. McCoy, staff from the Lieutenant Governor's Office,  
17 staff from Speaker Straus's office?  
18 A. Were they involved in my communications with --  
19 no. It was my communicating with Jennifer.  
20 Q. So the two of you were the sole parties to  
21 those drafts; is that correct?  
22 A. Yes.  
23 Q. Did Representative Harless look at these  
24 drafts?  
25 A. Yes.

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1 Q. Was she part of communications with  
2 Ms. Jackson?  
3 A. No. I was the -- I was the point of contact  
4 with Council.  
5 Q. What were the changes that were made through  
6 the drafting process with the Council?  
7 A. The changes that Council made in the various  
8 drafts? Is that you're asking?  
9 Q. Yes.  
10 A. I don't remember the specific changes that were  
11 made. I know there were at least two drafts.  
12 Q. Did you play any role before -- you may have  
13 testified about this earlier, but please remind me. Did  
14 you have any role in the development of SB 14 before it  
15 arrived in the House?  
16 A. No.  
17 Q. So you not do any research to figure out how to  
18 craft that bill as it originated in the Senate; is that  
19 correct?  
20 A. No. That was for the Senators and -- no.  
21 Q. Did you conduct any research when it arrived in  
22 the House, in terms of looking to other states' models?  
23 Doing any other research?  
24 A. Yes.  
25 Q. Could you tell me about that research.

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1 A. The research fell in line with my research on  
 2 House Bill 112. It involved looking to other states,  
 3 Georgia, Indiana, researching legal opinions.  
 4 Q. What sort of legal opinions?  
 5 A. Specifically the Indiana case.  
 6 Q. Did you read Crawford, the Crawford decision?  
 7 A. Yes. Yes.  
 8 Q. Did it cause you to change any of the drafting  
 9 of the bill, SB 14?  
 10 MR. SWEETEN: I'm going to object to that.  
 11 I think that calls for his thought process in how he  
 12 reacted to the Crawford decision, et cetera. I think  
 13 that's out -- I think that is legislatively privileged,  
 14 so I'm going to instruct him not to answer that  
 15 question.  
 16 Q. (By Ms. Westfall) Did you have any  
 17 communications with any interest group about SB 14 as  
 18 you were developing it?  
 19 A. No.  
 20 Q. Did you have any communications with any  
 21 lobbyist?  
 22 A. No.  
 23 Q. Did you have any communications with other  
 24 legislators or staff, who you haven't already testified  
 25 about, in developing SB 14?

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1 MR. SWEETEN: Don't reveal any  
 2 communications in that category. You can reveal whether  
 3 or not you've had discussions with individuals and other  
 4 staff.  
 5 A. It was -- could you repeat the question? I'm  
 6 sorry.  
 7 Q. (By Ms. Westfall) Did you have any  
 8 communications with any interest groups or constituents  
 9 regarding the development of SB 14?  
 10 MR. SWEETEN: The same instruction.  
 11 THE WITNESS: Is that a different --  
 12 Q. (By Ms. Westfall) Answer that question,  
 13 please.  
 14 A. Okay. Constituents regarding the development  
 15 of SB 14? No.  
 16 Q. Did you have any communication with the  
 17 American Legislative Exchange Council?  
 18 A. No.  
 19 Q. Did you have communications with any experts on  
 20 the topic of voter ID in developing SB 14?  
 21 A. And experts?  
 22 Q. Any people from outside the state who write or  
 23 think about voter ID.  
 24 A. No, I didn't have any discussions.  
 25 MS. WESTFALL: Could you mark this is

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1 Exhibit 5.  
 2 (Exhibit 5 marked for identification.)  
 3 Q. (By Ms. Westfall) I'm handing you what's been  
 4 marked as U.S. Exhibit 5. Do you recognize this?  
 5 A. It appears to be Senate Bill 14. I'm not --  
 6 Senate Bill 14 as it was signed by the Governor.  
 7 Q. Was this a different form of the bill from what  
 8 was received in the House?  
 9 A. Yes.  
 10 Q. What were the differences?  
 11 A. Would you like me to go through the bill?  
 12 Q. Well, the major differences.  
 13 A. The major differences. Okay.  
 14 Q. The major differences.  
 15 A. The Section 1 has to do with the disability  
 16 exemption. As that came over from the Senate, the  
 17 standard was different. I believe it was based on a  
 18 physician's note. And in the version as it was signed  
 19 by the Governor, there is a written documentation from  
 20 the Social Security Administration or Department of  
 21 Veterans Affairs.  
 22 The -- I believe in the Senate bill, the  
 23 concealed handgun license, there was no language  
 24 regarding the expired -- the House added the language  
 25 regarding the -- that it's not expired 60 days before

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1 the date of presentation.  
 2 The exemption for the religion objection  
 3 was worded -- I believe was worded differently in the  
 4 Senate's version of the bill.  
 5 The natural -- excuse me -- the natural  
 6 disaster language contained -- the final version of the  
 7 bill was added in the House, so that was not contained  
 8 in the Senate's version of the bill.  
 9 The language on the election  
 10 identification certificate was not in the Senate's  
 11 version of the bill. I might have missed some, but from  
 12 my reading through the bill, those are the ones I  
 13 remember right now.  
 14 Q. Thank you.  
 15 Going back to your development of SB 14,  
 16 did you have any communications with any groups  
 17 representing minority voters in developing SB 14?  
 18 A. Can you repeat that?  
 19 MS. WESTFALL: Could you read back the  
 20 question please, sir.  
 21 (The requested portion was read by the  
 22 court reporter.)  
 23 MR. SWEETEN: Don't reveal the substance  
 24 of any communication. You can answer, identify the fact  
 25 of the communication.

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- 1 A. Yes.
- 2 Q. (By Ms. Westfall) What were those groups?
- 3 A. I believe we received communications from -- it
- 4 was either LULAC or MALC, and as well as the -- those
- 5 are the ones I remember.
- 6 Q. Are you talking about MALDEF?
- 7 A. I'm sorry. MALDEF.
- 8 Q. And were any steps taken in response -- in
- 9 drafting SB 14, in response to those communications?
- 10 A. I don't remember the nature of the
- 11 communications, so I can't say.
- 12 Q. So you're --
- 13 A. But I do remember we were -- we were contacted
- 14 by them.
- 15 Q. Did you receive written communications?
- 16 A. I don't remember. I know there was
- 17 communication. I believe there was an office visit from
- 18 an individual.
- 19 Q. Do you recall one visit from someone from
- 20 MALDEF?
- 21 A. Yes.
- 22 Q. Do you recall who that person was?
- 23 A. No, I don't.
- 24 Q. Do you recall when that meeting took place?
- 25 A. No, I don't.

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- 1 Q. Do you recall whether it was Luis Figueroa?
- 2 A. I can't remember.
- 3 Q. Were you at that meeting?
- 4 A. The office visit, I don't remember.
- 5 Q. Who was at that meeting, besides the
- 6 representative from MALDEF and the representative?
- 7 A. I don't remember.
- 8 Q. And sitting here today, you can't recall
- 9 whether any steps were taken in response to that meeting
- 10 with regard to the development of SB 14; is that right?
- 11 A. I don't.
- 12 Q. You don't recall?
- 13 A. I don't recall.
- 14 Q. You can't identify any steps, in other words,
- 15 that were taken in response to that?
- 16 MR. SWEETEN: Objection, argumentative.
- 17 Q. (By Ms. Westfall) You may answer.
- 18 A. I don't recall the specifics of the
- 19 communication; therefore, I can't speak to what was
- 20 changed.
- 21 Q. And Representative Harless is the only person
- 22 who would be able to speak to that; is that right?
- 23 MR. SWEETEN: Objection as to -- you don't
- 24 have to answer that question.
- 25 MS. WESTFALL: What's your basis?

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- 1 MR. SWEETEN: The basis is, you're asking
- 2 him to say, will Representative Harless answer that
- 3 question, and how would he possibly --
- 4 MS. WESTFALL: I said, is she the only
- 5 person who would know, and that goes to the motion to
- 6 compel which we will file.
- 7 MR. SWEETEN: Okay. I'm going to go
- 8 ahead, and I'll let you answer the question, but I'm
- 9 going to object to the question for speculation. Go
- 10 ahead.
- 11 A. I don't know. I can't --
- 12 Q. (By Ms. Westfall) Turning back to Exhibit 5,
- 13 SB 14, how was the decision reached on the forms of ID
- 14 to include in SB 14 on the House side?
- 15 MR. SWEETEN: Objection. Don't answer the
- 16 question. That calls for him to provide thoughts and
- 17 opinions about legislation in furtherance of the
- 18 legislative process and is legislatively privileged.
- 19 Q. (By Ms. Westfall) Did you conduct or
- 20 Representative Harless conduct any analysis to determine
- 21 what forms of ID to include in SB 14 when it came to the
- 22 House?
- 23 MR. SWEETEN: Objection, compound.
- 24 Q. (By Ms. Westfall) You may answer.
- 25 A. I can answer for myself, and yes, I did look at

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- 1 forms of identification.
- 2 Q. What analysis did you conduct?
- 3 A. In my research on voter identification issues,
- 4 there were different forms of identification out there,
- 5 and they were considered.
- 6 Q. So you looked at -- as you testified earlier,
- 7 you looked at Georgia and Indiana; is that correct?
- 8 A. Correct.
- 9 Q. Did you look to previous iterations of voter ID
- 10 in the House or Senate?
- 11 A. Correct.
- 12 Q. Which previous iterations did you look to?
- 13 A. In my research on the issue, I looked at -- I
- 14 believe I looked at 2007, 2009.
- 15 Q. Could you describe the forms of ID that are
- 16 acceptable under Senate Bill 14?
- 17 A. Acceptable forms of identification would be a
- 18 driver's license, an election identification
- 19 certificate, a personal identification card issued by
- 20 DPS. Those are DPS issued identification. Next would
- 21 be a military identification card. A United States
- 22 citizens certificate, a United States passport, and a
- 23 license -- concealed carry license.
- 24 Q. Were any other forms of ID considered during
- 25 the drafting and development of SB 14 on the House side?

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1 MR. SWEETEN: Objection to the question.  
 2 You're asking him to reveal thoughts and opinions about  
 3 what was considered in formulating this legislation. It  
 4 also calls for speculation.  
 5 So I'm going to instruct you, if you can  
 6 answer based upon your own personal knowledge, but I  
 7 don't want you to reveal any communications between any  
 8 of the categories that we've been discussing today.  
 9 A. In the committee and on the House floor, there  
 10 were, I believe, a few other forms of identification  
 11 that were discussed and brought up as a --  
 12 MR. SWEETEN: Let me be clear also. To  
 13 the extent -- and I want to be consistent that this --  
 14 I'm not including in this instruction matters of public  
 15 record, including committee hearings or House Floor  
 16 debates, so that is not included in that instruction.  
 17 Q. (By Ms. Westfall) My question is limited to  
 18 the time when the House received SB 14, to the time the  
 19 committee considered it.  
 20 A. Okay.  
 21 Q. Were any other forms of ID considered in the  
 22 development to be added to SB 14?  
 23 MR. SWEETEN: Same objection.  
 24 A. I think if I answer that, that's going to be  
 25 privileged.

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1 MR. SWEETEN: Elizabeth, I'm sorry, I've  
 2 got to go to take a break.  
 3 MS. WESTFALL: Absolutely. By all means.  
 4 Let's take a break. Do you want to do lunch?  
 5 (Lunch recess from 12:53 to 1:51 p.m.)  
 6 BY MS. WESTFALL:  
 7 Q. I believe we were talking about U.S. Exhibit  
 8 Number 5, SB 14.  
 9 A. Yes.  
 10 Q. During consideration and development of SB 14,  
 11 did you consider allowing the use of expired forms of  
 12 ID?  
 13 A. During the development, after it came over from  
 14 the Senate, did I consider other -- expired forms of  
 15 identification?  
 16 Q. Yes.  
 17 A. The --  
 18 MR. SWEETEN: Hold on a second. I'm going  
 19 to object. I think to the extent that this requires him  
 20 to reveal thoughts and opinions about legislation or in  
 21 furtherance of the legislative process, I think that  
 22 this is potentially legislatively privileged.  
 23 If you're asking him in the drafting  
 24 stage, as he's drafting this, was that considered his --  
 25 as he looking at it? I can let him answer as to that,

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1 but don't reveal any -- you're not to reveal your  
 2 thought process or any communications surrounding that  
 3 issue. Go ahead.  
 4 MS. WESTFALL: So just to be clear, you're  
 5 directing him not to answer as to communications he had  
 6 with Representative Harless, other staff, other  
 7 legislators regarding expired forms of ID?  
 8 MR. SWEETEN: Yeah. I'm absolutely  
 9 instructing him not to answer with respect to the  
 10 conversations that he's had with any of those  
 11 individuals or any of them that I've named. And so I  
 12 guess to the extent that you can answer her question  
 13 without revealing that information, you can do so.  
 14 A. The -- the issue of expired licenses, that --  
 15 yes, that was something that was -- I thought of.  
 16 Q. (By Ms. Westfall) And it wasn't included in SB  
 17 14 as enacted by the House; is that right?  
 18 A. That's correct.  
 19 Q. Turning your attention to Exhibit 5 --  
 20 A. Well, some expired are, I mean, past 60 days.  
 21 Sorry to interrupt.  
 22 Q. Right. And you testified earlier that HB 112  
 23 allowed for forms of I.D. that had expired two years  
 24 earlier; is that correct?  
 25 A. I believe -- yes, I believe that's what's in

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1 112.  
 2 Q. So why the change in Representative Harless's  
 3 position from HB 112 to SB 14?  
 4 MR. SWEETEN: Don't answer as to Harless's  
 5 position. We're not here to answer on what Harless's  
 6 position is. That's legislatively privileged. So don't  
 7 answer that question.  
 8 THE WITNESS: Okay.  
 9 Q. (By Ms. Westfall) Turning your attention back  
 10 to SB 14, can you tell me how the -- how it came to be  
 11 included, the license to carry a concealed handgun, why  
 12 was that a form of acceptable ID?  
 13 MR. SWEETEN: Hold on. You're asking  
 14 about the thought process of the development of this  
 15 legislation. This witness cannot provide that  
 16 information. It's legislatively privileged for him to  
 17 talk about any conversations he's had or the thought  
 18 process or opinions about the legislation. So I think  
 19 your -- your question invades the legislative privilege  
 20 as phrased.  
 21 Q. (By Ms. Westfall) Who were the persons who  
 22 would know about the development and inclusion of that  
 23 form of ID in SB 14?  
 24 A. The concealed handgun license?  
 25 Q. Yes.

<p style="text-align: center;">121</p> <p>1 A. That was a Senate floor amendment. I believe</p> <p>2 Senator Hinojosa offered that amendment.</p> <p>3 Q. To the Senate bill?</p> <p>4 A. Correct.</p> <p>5 Q. Why was it included on the Senate, do you know?</p> <p>6 MR. SWEETEN: Objection. I think that</p> <p>7 that asks for him to speculate as to what -- why the</p> <p>8 Senate included it. It also invades the legislative</p> <p>9 privilege protections, and he doesn't have to provide</p> <p>10 that information.</p> <p>11 Q. (By Ms. Westfall) Do you know anything else</p> <p>12 about the -- that was in the public record about why</p> <p>13 license to carry licenses were included as allowable ID?</p> <p>14 MR. SWEETEN: You can answer. It's of</p> <p>15 public record.</p> <p>16 A. Okay. I don't remember the debate, just -- the</p> <p>17 specific part of that debate. It was a lengthy debate,</p> <p>18 but beyond that, it was Senator Hinojosa.</p> <p>19 Q. (By Ms. Westfall) What was the purpose of</p> <p>20 including the license to carry ID as an allowable form</p> <p>21 of ID in SB 14?</p> <p>22 MR. SWEETEN: I'm going to object to</p> <p>23 that. You're asking for matters that are legislatively</p> <p>24 privileged. You're also asking him to speculate as to</p> <p>25 the intent of individuals who passed Senate Bill 14.</p>	<p style="text-align: center;">123</p> <p>1 believe earlier in this deposition, you've allowed him</p> <p>2 to answer questions regarding purpose, have you not?</p> <p>3 MR. SWEETEN: You asked him specifically</p> <p>4 about what -- I don't know that you said the word</p> <p>5 "purpose," so we'll have to look at the transcript. But</p> <p>6 I think you asked him about what he did when he was</p> <p>7 drafting the bill and other matters that were within his</p> <p>8 purview when he was looking at the bill.</p> <p>9 That's a different thing than asking</p> <p>10 him with a final -- with a Senate Bill 14 coming over</p> <p>11 from the Senate, it's a completely different thing for</p> <p>12 you to ask him to glean what the purpose of that bill</p> <p>13 was.</p> <p>14 Q. (By Ms. Westfall) Do you know the racial</p> <p>15 composition of Texans who have license to carry</p> <p>16 licenses?</p> <p>17 A. No, I do not.</p> <p>18 Q. Do you know whether anyone in the legislature</p> <p>19 or their staff looked into that issue in considering SB</p> <p>20 14?</p> <p>21 A. No, I do not.</p> <p>22 Q. Do you know whether holders of these licenses</p> <p>23 are disproportionately White relative to Texas</p> <p>24 registered voters?</p> <p>25 A. I don't have -- I don't know. I don't have</p>
<p style="text-align: center;">122</p> <p>1 That's outside of what he's able to testify about, and</p> <p>2 it's privileged.</p> <p>3 MS. WESTFALL: Just to be clear,</p> <p>4 Mr. Sweeten, the purpose of -- questions about the</p> <p>5 purpose of particular provisions of SB 14 are privileged</p> <p>6 according to your client?</p> <p>7 MR. SWEETEN: What I'm saying is that you</p> <p>8 asked him to speculate as to what the purpose was when</p> <p>9 Senate Bill 14 came over to the House. You're asking</p> <p>10 him to go into the mindset of what those senators --</p> <p>11 what their thought process was. So on two points, one,</p> <p>12 it's asking for speculation. You're calling for</p> <p>13 speculation for him to do so.</p> <p>14 MS. WESTFALL: But you're not instructing</p> <p>15 the witness --</p> <p>16 MR. SWEETEN: Secondly --</p> <p>17 MS. WESTFALL: -- not to answer on that</p> <p>18 basis.</p> <p>19 MR. SWEETEN: Secondly, I do believe that</p> <p>20 it invades -- it asks him to reveal thoughts and</p> <p>21 opinions about legislation or in furtherance of the</p> <p>22 legislative process. I think it does that. So I --</p> <p>23 with respect to that issue, I'm going to instruct him</p> <p>24 not to answer that question.</p> <p>25 MS. WESTFALL: Okay. Just to be clear, I</p>	<p style="text-align: center;">124</p> <p>1 information on that.</p> <p>2 Q. Do you know whether anyone in the legislature</p> <p>3 or their staff looked into that issue when considering</p> <p>4 whether to include license to carry as a form of</p> <p>5 allowable ID in SB 14?</p> <p>6 MR. SWEETEN: I'm going to let you answer</p> <p>7 that, but do not reveal conversations you've had with</p> <p>8 other legislators, legislative staff, or any</p> <p>9 conversations you've had with Representative Harless or</p> <p>10 any state agencies, including those that I've enumerated</p> <p>11 before.</p> <p>12 A. I can't speak for other offices and their</p> <p>13 research that they did when this amendment was offered</p> <p>14 in the Senate.</p> <p>15 Q. (By Ms. Westfall) But answering my question,</p> <p>16 do you know whether anyone looked into that issue of</p> <p>17 racial composition of those licensed holders?</p> <p>18 A. No, I can't --</p> <p>19 Q. You don't know?</p> <p>20 A. I don't know.</p> <p>21 Q. Are you aware of any discussions with</p> <p>22 legislators or staff expressing concern or opinions that</p> <p>23 including this form of ID might disproportionately favor</p> <p>24 White voters?</p> <p>25 MR. SWEETEN: Don't reveal any</p>

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1 conversations you've had as enumerated previously. I  
 2 can list those if you're not familiar with what I'm  
 3 telling you, but don't list the -- do not discuss  
 4 communications you've had with staff members,  
 5 legislators or the other entities.  
 6 A. Conversations regarding CHL license and the --  
 7 I'm sorry?  
 8 MS. WESTFALL: Could you read back the  
 9 question, please?  
 10 (Requested portion read back by the court  
 11 reporter.)  
 12 MR. SWEETEN: I'm going to instruct you  
 13 not to answer the question based upon the legislative  
 14 privilege. I will allow you to discuss matters of  
 15 public record in answering this question.  
 16 A. Okay. And no, I don't remember any  
 17 conversations.  
 18 Q. (By Ms. Westfall) Was there anything on the  
 19 public record about the discussion of the racial  
 20 composition of people who hold license to carry licenses  
 21 in Texas?  
 22 A. I don't remember from the Senate debate.  
 23 Q. Was there anything in the House debate?  
 24 A. I don't remember that issue coming up.  
 25 Q. Turning your attention back to SB 14, how did

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1 the disability exception that you testified about  
 2 earlier arose -- arise?  
 3 MR. SWEETEN: Don't reveal communications  
 4 that you've had with any of the legislative staff,  
 5 legislators, state agencies, constituents.  
 6 A. How did the initial language, the initial --  
 7 this was also an amendment placed on the Senate -- an  
 8 amendment from the Senate, a floor amendment, and in our  
 9 committee substitute, we -- we -- we made some  
 10 modifications to the disability exemption.  
 11 Q. (By Ms. Westfall) Do you know whether the  
 12 disability exemption was included in SB 14 in response  
 13 to any concerns that were raised about the bill?  
 14 MR. SWEETEN: Don't reveal any  
 15 conversations you've had. You can testify as to the  
 16 public record.  
 17 A. I -- I can't say. Senator Patrick offered that  
 18 amendment, and I can't speak for his office.  
 19 Q. (By Ms. Westfall) With regard to SB 14, how  
 20 did the exception regarding religious objections to  
 21 photo IDs arise?  
 22 MR. SWEETEN: Don't testify as to any  
 23 conversations that you've had with respect to this. You  
 24 can testify as to matters revealed in the public record.  
 25 A. I believe that exemption came from another

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1 Senate floor amendment. I can't remember the author of  
 2 that amendment.  
 3 Q. (By Ms. Westfall) Was that exemption not put  
 4 in, in the conference committee of SB 14?  
 5 A. The religious exemption?  
 6 Q. Yes.  
 7 A. I believe it's in the -- yes, it's in the  
 8 final.  
 9 Q. But was it inserted during conference?  
 10 A. The language was -- I believe there were a few  
 11 changes to that language, but as a whole, it was kept  
 12 throughout the process after it was put on in the  
 13 Senate.  
 14 Q. Do you know whether putting in that exemption  
 15 was in response to any concerns that were raised?  
 16 MR. SWEETEN: Don't reveal the thought  
 17 process revealed within conversations. You can testify  
 18 as to matters within the public record.  
 19 A. Concerns, when you mentioned -- when you say  
 20 "concerns," are you -- can you elaborate on that, or is  
 21 that just concerns from --  
 22 Q. (By Ms. Westfall) Was the religious  
 23 exemption or -- that was included in SB 14, included  
 24 because there were concerns expressed by any outside  
 25 group, constituent, et cetera, that you're aware of?

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1 MR. SWEETEN: You can testify as to  
 2 matters of the public record. Don't reveal  
 3 conversations.  
 4 A. Okay. I don't remember the Senate debate when  
 5 that amendment came up. Senator -- I think it was  
 6 Senator Duncan, I'm not a hundred percent sure on that,  
 7 offered that amendment, but I do not remember the  
 8 justification for placing it in there.  
 9 Q. (By Ms. Westfall) SB 14 includes military ID  
 10 as a form of appropriate identification, does it not?  
 11 A. Yes.  
 12 Q. What does that mean?  
 13 MR. SWEETEN: Objection, asked and  
 14 answered.  
 15 Q. (By Ms. Westfall) You may answer.  
 16 A. I'm sorry. I missed that.  
 17 MR. SWEETEN: Just asked and answered.  
 18 You can go ahead and answer her question.  
 19 A. Okay. The -- that shows up in Section 36.0101  
 20 and the United States military identification  
 21 card. You're asking what does that include? I think  
 22 that's the language speaks for itself.  
 23 Q. (By Ms. Westfall) Actually, it really  
 24 doesn't. Do you have any specific information about  
 25 what types of cards or the providence of such cards?

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1 A. Beyond the text of the bill, no.  
 2 Q. Did you have any discussion with Representative  
 3 Harless or any other staff or legislators concerning how  
 4 to define military ID under SB 14?  
 5 MR. SWEETEN: Don't reveal the substance  
 6 of discussions.  
 7 A. Yes.  
 8 Q. (By Ms. Westfall) When were those  
 9 discussions? When did they take place?  
 10 A. The summer of 2011.  
 11 Q. That was after the bill was passed?  
 12 A. Correct.  
 13 Q. Who was involved in those discussions?  
 14 A. Representative Harless and myself.  
 15 Q. Just the two of you?  
 16 A. In that instance, yes, Representative Harless  
 17 and myself.  
 18 Q. Was there more than one conversation?  
 19 A. Yes.  
 20 Q. And how many other conversations?  
 21 A. I'm going to say less than five.  
 22 Q. Was this related to any legislative act?  
 23 MR. SWEETEN: Objection to the question as  
 24 vague. I also am going to tell you, don't reveal the  
 25 substance of any discussions that you've had with

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1 Representative Harless, any other legislator or any  
 2 other staff member.  
 3 Q. (By Ms. Westfall) This was after the bill was  
 4 signed into law, was it not?  
 5 A. Correct.  
 6 Q. So you had more than -- you had a handful of  
 7 conversations with Representative Harless about military  
 8 IDs, correct?  
 9 A. Yes.  
 10 Q. And it was you and Representative Harless for  
 11 at least one of those conversations; is that right?  
 12 A. For those conversations, yes.  
 13 Q. Was this an in-person conversation?  
 14 A. A telephone conversation.  
 15 Q. Who were the parties to the other conversations  
 16 about military ID in the summer of 2011?  
 17 A. I had a conversation with the Secretary of  
 18 State's Office.  
 19 Q. Was that just between you and the Secretary of  
 20 State --  
 21 A. Yes.  
 22 Q. -- office? Who in that office did you talk to?  
 23 A. At that time, John Sepehri, I believe, that's  
 24 who was working with.  
 25 THE REPORTER: Sorry. What was that last

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1 name?  
 2 THE WITNESS: Sepehri is how you pronounce  
 3 it. I'm not sure on the spelling.  
 4 MR. FREDERICK: S-e-p-e-h-r-i.  
 5 Q. (By Ms. Westfall) When you -- what prompted  
 6 your conversation with Representative Harless about  
 7 military IDs?  
 8 MR. SWEETEN: Don't reveal it if it  
 9 relates to any conversations you've had with any of the  
 10 enumerated people. You can answer it if it does not do  
 11 that. Okay?  
 12 A. Okay. I think that's part of the privilege.  
 13 Q. (By Ms. Westfall) So you can't answer?  
 14 A. What prompted me to look into this issue, that  
 15 would be.  
 16 Q. Does that answer apply to questions that I have  
 17 about the other conversations that you've had with  
 18 Secretary of State's office about military ID?  
 19 A. What prompted me to contact the Secretary --  
 20 yes.  
 21 Q. Yes.  
 22 A. Yes.  
 23 Q. When you were drafting SB 14 and developing it  
 24 in the House side, did you assess the number of forms of  
 25 military ID that would be included in the bill?

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1 A. No.  
 2 Q. Did you believe that the forms of military ID  
 3 would be easily recognizable by poll workers?  
 4 A. I believe that was the testimony or the  
 5 thought.  
 6 MS. WESTFALL: Mr. Sweeten, could you  
 7 explain why you have directed the witness not to testify  
 8 about conversations related to SB 14 that occurred after  
 9 its enactment?  
 10 MR. SWEETEN: Yeah. Conversations that  
 11 occurred after the enactment of Senate Bill 14 that  
 12 discuss the Senate Bill 14 process, as well as the  
 13 legislative process in enacting it, are just as I said  
 14 earlier today, we're asserting that those are  
 15 privileged.  
 16 As to conversations that don't relate  
 17 to the passage development of Senate Bill 14, you know,  
 18 he can answer those questions. I haven't stopped you  
 19 from doing that. But as they relate back to the process  
 20 by which Senate Bill 14 was passed, I'm instructing him  
 21 not to answer those questions.  
 22 Q. (By Ms. Westfall) Now that you've heard from  
 23 your counsel, Mr. Sweeten, on his position on the  
 24 privilege, do you want to amend or clarify any of the  
 25 responses that you've given today in answer to any of my

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1 questions?

2 A. I'm sorry. The --

3 Q. Mr. Sweeten has explained a distinction about

4 conversations concerning the development of SB 14 that

5 occurred after --

6 A. Post passage, if it involves Senate Bill 14, is

7 that --

8 Q. Correct. Do you want to amend any of the

9 answers to any of the questions that I've asked?

10 A. Not that -- no.

11 Q. Okay. Why does Senate Bill 14 include military

12 ID and not student ID?

13 MR. SWEETEN: Objection. I think that

14 calls for matters that are legislatively privileged.

15 They also impact conversations that occurred regarding

16 the bill that are not a public matter.

17 He can testify as to the public

18 hearing, the public aspects of this case, including

19 committee, et cetera, but not to the matters that are

20 nonpublic.

21 A. The -- the debate in committee and on the

22 floor, these forms of identification were chosen because

23 they were readily identifiable and secure.

24 Q. (By Ms. Westfall) Aren't there many, many

25 forms of military IDs?

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1 A. I -- I'm not advised. I don't --

2 Q. Do you know or do you not know?

3 MR. SWEETEN: Objection, asked and

4 answered.

5 Q. (By Ms. Westfall) You may answer.

6 A. I don't know.

7 Q. Why is it that Senate Bill 14 that

8 Representative Harless carried does not include nonphoto

9 ID as acceptable ID?

10 MR. SWEETEN: Objection. I think that

11 you're asking him to reveal conversations that relate --

12 that would be legislatively privileged, conversations

13 that we've enumerated before.

14 And to the -- so I'm going to object

15 to the extent that those conversations reveal thoughts

16 and opinions about legislation or in furtherance of the

17 legislative process, that I'm instructing him not to

18 answer those questions.

19 Q. (By Ms. Westfall) Do you have any -- any

20 response to that question that is not -- that is outside

21 the privilege that your counsel is asserting?

22 A. Why photo identification, is that --

23 Q. Why SB 14 did not include nonphoto ID as

24 acceptable ID?

25 MR. SWEETEN: Again, you can testify as to

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1 the public record. Don't reveal conversations,

2 communications, that we've enumerated.

3 A. Photo identification is -- is -- further

4 strengthens the -- the ability of the poll workers to

5 verify these people are who they say they are.

6 Q. (By Ms. Westfall) So you testified earlier

7 that Representative Harless filed the bill in November

8 2010 that included nonphoto ID as acceptable ID, did she

9 not?

10 A. That's correct.

11 Q. Why did she change her position in the

12 intervening months between when she filed HB 112 in

13 November 2010 and when she started carrying SB 14 at the

14 beginning of 2011?

15 MR. SWEETEN: Objection, speculation.

16 Objection. It calls for him to provide matters that are

17 legislatively privileged, reveal -- potentially reveal

18 conversations with Representative Harless.

19 To the extent that you can answer that

20 based upon the public record, you can do so.

21 Q. (By Ms. Westfall) Can you provide any

22 testimony in response to my question given your

23 counsel's instruction?

24 A. No. I think that would be within the

25 privilege.

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1 Q. Did you have any discussions with anyone other

2 than Representative Harless about why there was such a

3 shift between HB 112 and SB 14 in terms of allowable

4 forms of identification?

5 MR. SWEETEN: Court reporter, could you

6 please read that question back?

7 (Requested portion read back by the court

8 reporter.)

9 MR. SWEETEN: I'm going to instruct you

10 not to reveal discussions with legislators, with staff

11 members, with any members of state agencies, with the

12 Texas Legislative Council, other staffers. Those are

13 legislatively privileged. Do not reveal those.

14 However, if you can answer her question based upon the

15 public record, I will allow you to do so.

16 Q. (By Ms. Westfall) Do you have any response

17 in -- in response -- any testimony in response to my

18 question given your counsel's instruction?

19 A. No. I did not have any -- I did not have

20 conversations.

21 Q. You did not have conversations with

22 Representative Harless about why she changed your

23 position, is that your testimony?

24 A. No, that's not my testimony. You -- this -- my

25 understanding was that your question was about people

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1 outside of Representative Harless.  
 2 Q. Okay. So to the extent that it was public, did  
 3 not involve staff, did not involve legislators, you did  
 4 not have conversations about why there was a shift in  
 5 allowable forms of ID from HB 112 to SB 14; is that  
 6 right?

7 A. Correct.

8 MR. SWEETEN: Don't reveal any  
 9 conversations you've had with Representative Harless  
 10 regarding that issue.

11 THE WITNESS: Okay.

12 Q. (By Ms. Westfall) Did you have any discussions  
 13 outside of the legislature with anyone about the change  
 14 in the form of the bill from HB 112 to SB 14?

15 A. No.

16 Q. Did you have any conversations with any  
 17 constituents about the change in the bill -- bills?

18 A. No.

19 Q. Any groups?

20 A. No.

21 Q. Did you have any discussion with anyone in the  
 22 -- actually, strike that.

23 Did anyone in the media or the press ask  
 24 you or Representative Harless, any other staff or any  
 25 legislators, why -- why the bill changed from HB -- why

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1 the forms of allowable ID changed from HB 112 to SB 14?

2 MR. SWEETEN: Objection, compound.

3 Q. (By Ms. Westfall) You may answer.

4 A. Not that I remember.

5 Q. There was no scrutiny of that issue at all?

6 MR. SWEETEN: Objection to form, vague.

7 Q. (By Ms. Westfall) You may answer.

8 A. Not that I remember.

9 Q. Is it your testimony here today that you don't  
 10 recall a single question about why the use of nonphoto  
 11 ID was included in HB 112 and not included in SB 14? Is  
 12 that your testimony?

13 MR. SWEETEN: Are you saying "media  
 14 question," because your last question --

15 MS. WESTFALL: I'm saying any question.

16 MR. SWEETEN: Any question from anyone?

17 MS. WESTFALL: Correct.

18 MR. SWEETEN: Don't reveal any constituent  
 19 questions or any questions between legislators,  
 20 legislative staff, TLC or state agencies in answering  
 21 that question.

22 A. I -- I don't remember it. If it happened, I  
 23 don't remember.

24 Q. (By Ms. Westfall) Why in your mind did the --  
 25 did SB 14 not include nonphoto ID?

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1 MR. SWEETEN: Don't reveal any  
 2 communications in answering that. You can rely on the  
 3 public record, or if you can provide your personal  
 4 opinion, in your mind, as to that question.

5 A. I mentioned it earlier. I think it provides,  
 6 it strengthens the election workers' ability to prove  
 7 they are who they say they are when they come to vote

8 Q. (By Ms. Westfall) Was there anything that  
 9 happened in the beginning of 2011 or end of 2010 that  
 10 prompted the legislature to feel there was a need for  
 11 stricter ID?

12 MR. SWEETEN: Objection. I think that  
 13 calls for legislatively privileged information. And  
 14 don't reveal any sort of communication that was  
 15 discussed. Don't reveal the -- don't reveal the  
 16 thoughts and opinions about legislation or furtherance  
 17 of the legislative process that you've learned through  
 18 communications.

19 A. Anything that happened as far as -- that's  
 20 pretty broad. Can you be more specific?

21 Q. (By Ms. Westfall) Was there -- were there any  
 22 changes in circumstance, any changes with regard to  
 23 election administration, any in-person voter fraud, any  
 24 decrease in public confidence at elections that you can  
 25 point to, that would cause the legislature to conclude

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1 that it needed to introduce a legislation about nonphoto  
 2 forms of ID?

3 MR. SWEETEN: Same instruction. Don't  
 4 reveal legislatively privileged information.

5 A. Without revealing privileged communications, I  
 6 would say no.

7 Q. (By Ms. Westfall) So you testified earlier  
 8 that you drafted HB 112, correct?

9 A. The --

10 Q. At the request of Representative Harless; is  
 11 that right?

12 MR. SWEETEN: Objection, misstates prior  
 13 testimony. And don't reveal conversations that you had  
 14 with Representative Harless.

15 A. Okay. The bill came over from the Senate. Did  
 16 I have it drafted to -- I did have it drafted to  
 17 incorporate the Senate amendments, technical, and then  
 18 the changes that we made in the committee substitute.

19 Q. (By Ms. Westfall) Are you referring to HB 112  
 20 or SB 14?

21 A. SB 14.

22 Q. Okay. Turning your attention to HB 112, you  
 23 drafted that --

24 A. I'm sorry. Was that -- yes. Yes, I did.

25 Q. -- at Representative Harless's request; is that

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1 correct?  
 2 A. Yes. Yes.  
 3 Q. And it informs -- forms -- it included forms of  
 4 nonphoto ID, correct?  
 5 A. That's correct.  
 6 Q. Why was it included in HB 112 and not in SB  
 7 14?  
 8 MR. SWEETEN: Don't reveal legislatively  
 9 privileged information. That includes all the  
 10 communications that we've talked about. To the extent  
 11 you can answer based on your own personal knowledge,  
 12 I'll let you do that.  
 13 THE WITNESS: Okay.  
 14 MR. SWEETEN: Or matters of the public  
 15 record, okay?  
 16 Q. (By Ms. Westfall) Do you have any testimony in  
 17 response to my question?  
 18 A. No.  
 19 Q. Did you review the Georgia photo ID bill in  
 20 crafting, drafting or developing SB 14?  
 21 A. Yes, I did in my research.  
 22 Q. Are you familiar with the law?  
 23 A. I am familiar with it. I'm by no means an  
 24 expert.  
 25 MS. WESTFALL: Would you mark this as U.S.

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1 6?  
 2 (Exhibit 6 marked for identification.)  
 3 Q. (By Ms. Westfall) You've been handed U.S. 6.  
 4 Would you look at the document and tell me if you  
 5 recognize it?  
 6 A. This appears to be a Georgia statute on photo  
 7 identification -- I'm sorry, on voter identification.  
 8 Q. Have you seen this before?  
 9 A. Yes.  
 10 Q. When did you last review it?  
 11 A. I'd say early 2011.  
 12 Q. Given the list of IDs in the Georgia statute,  
 13 is it fair to say that SB 14 allows for a narrower range  
 14 of IDs that are allowable than does the Georgia statute?  
 15 A. I would say it allows for a different, looks  
 16 like two different forms that the Senate bill does not.  
 17 Q. What are those forms?  
 18 A. A valid employee identification card, and then  
 19 a valid tribal identification card.  
 20 Q. Do you know why SB 14 does not allow for  
 21 employee identification cards?  
 22 MR. SWEETEN: I'm going to object. I'm  
 23 going to instruct you not to answer to the extent that  
 24 it reveals any communications that you've had with  
 25 respect to any of the categories that we've previously

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1 talked about. Do not reveal the thoughts and opinions  
 2 on legislation in furtherance of the legislative  
 3 process. Okay? If you can answer it based on matters  
 4 of public record, you can go ahead and do so.  
 5 A. That issue was discussed on the House floor. I  
 6 remember the debate. And the concerns with employee  
 7 identification cards were standardization of the form  
 8 and security of the form, of the form of identification.  
 9 Q. (By Ms. Westfall) And do you know why tribal  
 10 IDs were not included?  
 11 MR. SWEETEN: In Senate Bill 14, is that  
 12 the question?  
 13 MS. WESTFALL: In Senate Bill 14.  
 14 MR. SWEETEN: Okay. I'm going to instruct  
 15 you not to answer unless based upon the public record.  
 16 A. Similar concerns with readily identifiable and  
 17 a standardized readily identifiable form, from my  
 18 recollection of the debate.  
 19 Q. (By Ms. Westfall) Is it fair to say that there  
 20 are differences between the Georgia law and the Texas  
 21 law, Senate Bill 14?  
 22 A. You can say there are differences.  
 23 Q. Are you familiar with the Indiana photo ID law?  
 24 A. Yes.  
 25 Q. Are there any differences between SB 14 and the

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1 Indiana law?  
 2 A. I believe there are.  
 3 Q. Do you know what they are?  
 4 A. Without a copy of the Indiana law, I can't say  
 5 specifically.  
 6 Q. Could you list each and every purpose for the  
 7 enactment of SB 14?  
 8 MR. SWEETEN: Don't answer that question,  
 9 other than unless you can do so based upon matters of  
 10 public record.  
 11 MS. WESTFALL: Mr. Sweeten.  
 12 MR. SWEETEN: Uh-huh.  
 13 MS. WESTFALL: You have allowed repeatedly  
 14 him -- you've allowed this witness to answer that  
 15 question repeatedly on other topics during this  
 16 deposition. Are you changing -- is this --  
 17 MR. SWEETEN: I'm saying --  
 18 MS. WESTFALL: Is your position on this  
 19 topic changing because we're now talking about SB 14?  
 20 MR. SWEETEN: You're talking about a piece  
 21 of legislation. You're asking him to glean and provide  
 22 information as to the legislative -- all the legislative  
 23 intent behind the passage of that. He cannot do that.  
 24 It's legislatively privileged.  
 25 So I'm going to instruct him not to

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1 answer that question because -- except for to the extent  
2 it implicates matters of public record.

3 Q. (By Ms. Westfall) As to matters of public  
4 record, tell me every single purpose you're aware of for  
5 SB 14.

6 A. To deter and detect voter fraud, to increase  
7 voter confidence.

8 Q. Anything else?

9 A. Those are the ones I'm aware of.

10 Q. Was any part of the purpose of SB 14 to  
11 decrease the number of Hispanic voters?

12 MR. SWEETEN: I'm going to instruct you  
13 not to answer that question based on any conversations  
14 you've had with legislators, with staff, with state  
15 agencies, with anyone else in those enumerated  
16 categories related to the legislative process. I will  
17 allow you to answer based upon matters of public record.

18 A. No. That was not a stated purpose for the  
19 bill.

20 Q. (By Ms. Westfall) And are you asserting that  
21 you can't answer that question based on advice of  
22 counsel that that's privileged?

23 MR. SWEETEN: I think you misstate his  
24 answer. I've allowed him to answer based only upon the  
25 public record, and he's done so.

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1 But you're now asking about him  
2 substance of conversations, and he's not going to  
3 provide substance of conversations. That is  
4 legislatively privileged.

5 MS. WESTFALL: You're instructing him not  
6 to answer?

7 MR. SWEETEN: That's correct.

8 Q. (By Ms. Westfall) Are you aware of any  
9 discussions or communications about the racial impact of  
10 SB 14?

11 MR. SWEETEN: You can answer that question  
12 to the extent it appears on the public record. You  
13 cannot -- I'm instructing you not to answer with respect  
14 to matters that are conversations that we've enumerated  
15 before that are legislatively privileged.

16 Q. (By Ms. Westfall) Do you have any testimony in  
17 response to my question?

18 A. The -- could you --

19 Q. Are you aware of any communications regarding  
20 the racial impact of SB 14?

21 A. It was an issue that was discussed on the House  
22 floor.

23 Q. Those are the only discussions you're aware of;  
24 is that correct, that you can testify about based on the  
25 instructions of your counsel?

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1 Q. (By Ms. Westfall) Are you aware of any -- the  
2 existence of any conversations about decreasing the  
3 number of Hispanic voters in SB 14?

4 MR. SWEETEN: Other than matters of public  
5 record, do not reveal any conversations you've had with  
6 any legislator, legislative staff, state agency, Texas  
7 Legislative Council or anyone else. Okay? You can  
8 testify about matters of public record.

9 MS. WESTFALL: Mr. Sweeten, are you  
10 instructing him not to answer about the existence of  
11 conversations, because that is depriving me of the right  
12 to make my record on a privilege log basis.

13 MR. SWEETEN: You are asking him --

14 MS. WESTFALL: -- so we can move to  
15 compel.

16 MR. SWEETEN: -- the -- the preface of  
17 your question is as to substance.

18 MS. WESTFALL: Existence.

19 MR. SWEETEN: You're asking him substance  
20 of -- you're asking about him a topic, a specific  
21 topic: Are you aware of conversations regarding X  
22 topic? He can talk to you about individuals. I've let  
23 him today talk about individuals he's had discussions  
24 with, dates of those, approximately. Whether they were  
25 by e-mail or in person. I've let him do that.

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1 A. Yes. And in the committee.

2 Q. Are you aware of any discussions of SB 14 and  
3 Hispanic voters?

4 MR. SWEETEN: Confine your answer to  
5 matters of the public record and committee hearing  
6 testimony. I'm going to instruct you not to answer  
7 based upon the conversations that we've enumerated  
8 because they're legislatively privileged.

9 Go ahead.

10 A. Any discussions involving SB 14 and Hispanic  
11 voters? I believe that it was discussed in committee  
12 and on the House floor.

13 Q. (By Ms. Westfall) Other than that, you're not  
14 going to answer my question based on privilege?

15 A. Correct.

16 Q. Are you aware of anyone else who knows about  
17 any communications regarding SB 14 and Hispanic voters?

18 MR. SWEETEN: Don't reveal matters that  
19 are legislatively privileged or implicate the  
20 conversation or the categories of conversations that  
21 we've discussed earlier. You can discuss matters of the  
22 public record.

23 A. Based on that, no, based on the public record.

24 Q. (By Ms. Westfall) You mean based on the public  
25 record, no?

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1 MR. SWEETEN: Are you talking about his  
2 personal thoughts on the matter?

3 MS. WESTFALL: The purpose of the  
4 legislation.

5 MR. SWEETEN: And what I'm telling you,  
6 and I've tried to be consistent with respect to this, is  
7 that he's not going to testify about the purpose of  
8 Senate Bill 14 as to every conversation that every  
9 legislator had. He's not going to reveal that  
10 information. I'm going to instruct him not to.

11 If you're going to ask him as to his  
12 personal understanding of this legislation, you know,  
13 I've let you do that to some degree. So he can provide  
14 that, but don't reveal any sort of legislatively  
15 privileged information.

16 Q. (By Ms. Westfall) As to the issue of voter  
17 fraud, isn't it true that voter ID only would prevent  
18 in-person voter impersonation; is that correct?

19 A. That -- that is my understanding.

20 Q. It's not the universe of voter fraud, it's that  
21 category of voter fraud; is that correct?

22 MR. SWEETEN: Objection, that calls for  
23 speculation. Are you asking him specifically about this  
24 letter?

25 MS. WESTFALL: I am not.

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1 MR. SWEETEN: Okay. All right. Can you  
2 restate the question, or we can have him read it back if  
3 you prefer?

4 Q. (By Ms. Westfall) Can you answer my question?

5 MR. SWEETEN: No, no, no, no. I don't  
6 know the question. I'm going to ask the court reporter  
7 to read it back first.

8 (Requested portion read back by the court  
9 reporter.)

10 MR. SWEETEN: I'm going to let you answer  
11 that. I don't want you to reveal anything that's the  
12 subject of legislative privilege in the areas that I've  
13 enumerated. Go ahead and answer based upon your  
14 personal understanding of the public record.

15 A. And I was speaking from my -- this most recent  
16 session. I can't speak for the Lieutenant Governor back  
17 in two thousand and -- I believe this was in 2009.

18 Q. (By Ms. Westfall) Okay. You were working for  
19 the Lieutenant Governor at that point though, correct?

20 A. Correct.

21 Q. Okay. So in answer to my question, the two  
22 things you testified about in terms of the purposes of  
23 SB 14 were voter fraud and voter confidence, correct?

24 MR. SWEETEN: Don't reveal matters of  
25 legislative privilege. You can testify as to the public

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1 record or your personal understanding.

2 A. Yes. I believe that's right.

3 Q. (By Ms. Westfall) And voter fraud is limited  
4 to in-person voter impersonation; is that correct?

5 A. Yes.

6 Q. SB 14?

7 A. In SB 14, yes.

8 Q. SB 14 would not prevent the whole range of  
9 voter fraud set forth in the Texas election code; is  
10 that correct?

11 A. Yes. There is -- yes.

12 Q. Are you aware of incidents of mail-in ballot  
13 fraud that have occurred in Texas?

14 A. Yes.

15 Q. Tell me what you know about that.

16 A. I understand it is -- there are concerns about  
17 the mail-in ballot process and fraud within the mail-in  
18 ballot process.

19 Q. What do you know about any convictions that  
20 have occurred over that conduct?

21 MR. SWEETEN: Objection, vague.

22 A. I don't know the specifics, specific number of  
23 convictions. I understand it's a concern.

24 Q. (By Ms. Westfall) Has the Texas legislature  
25 taken any steps to address that concern?

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1 MR. SWEETEN: Don't reveal matters of the  
2 legislative privilege. You can testify based upon the  
3 public record and information you've gleaned from that.

4 A. Yes. I believe there were several bills filed  
5 of legislation to address those issues.

6 Q. (By Ms. Westfall) When were those bills filed?

7 A. I can speak to the 2011 session. I know there  
8 were bills filed in the 2011 session. I'm not sure  
9 about other sessions. I can't say.

10 Q. And who sponsored those bills?

11 A. Representative Aliseda had a mail-in ballot --  
12 Aliseda, Jose Aliseda.

13 Q. What happened with that bill?

14 A. I believe he -- he had several. I think there  
15 were other bills regarding mail-in. His was not the  
16 only one. I don't know the -- I do not believe -- I  
17 don't believe that his bill passed.

18 Q. Were these put on the emergency calendar by the  
19 governor?

20 MR. SWEETEN: Just keep your testimony to  
21 the matters of public record with respect to this.

22 A. The governor --

23 MS. WESTFALL: Mr. Sweeten, isn't the  
24 emergency calendar a matter of public record?

25 MR. SWEETEN: If the emergency calendar is

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1 a matter of public record, then he is going to be able  
2 to testify about that, and I will allow --

3 MS. WESTFALL: That was my question was  
4 about the emergency calendar. It was a question that  
5 was within the scope of public matters. I don't think  
6 it warranted an objection, and I'd ask you to withdraw  
7 that.

8 MR. SWEETEN: Okay. As I've already -- as  
9 I've been saying in a constant loop, I will let him  
10 testify as to matters of public record.

11 Okay. You can do so.

12 A. I believe the governor's emergency item had to  
13 do with in-person. I don't believe it had to -- excuse  
14 me -- the governor's proclamation had to do with  
15 in-person voter fraud.

16 Q. (By Ms. Westfall) Did not include any of this  
17 mail-in ballot bills that were filed by Representative  
18 Aliseda and others; is that correct?

19 A. That's my understanding.

20 (Exhibit 7 marked for identification.)

21 Q. (By Ms. Westfall) I'm handing you what's been  
22 marked as US-7. Do you recognize it?

23 A. That is Representative Patricia Harless.

24 Q. And is this from her website, or what is this  
25 exactly?

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1 A. This appears to be her campaign website.

2 Q. Have you seen this before?

3 A. Yes.

4 Q. Did you draft it?

5 A. No.

6 Q. Do you know who did?

7 A. No.

8 Q. Do you see under "Immigration Reform" it lists  
9 "Require Texas photo ID to vote"?

10 A. Yes, I do.

11 Q. Do you know what requiring Texas photo ID to  
12 vote has any -- has to do with immigration reform?

13 MR. SWEETEN: Don't reveal conversations  
14 you've had with anyone in answering this question.

15 A. I didn't draft this document so I don't know.

16 Q. (By Ms. Westfall) Are you personally aware of  
17 any connection between immigration reform and requiring  
18 Texas photo ID to vote?

19 A. Not to my knowledge.

20 Q. What -- what does SB 14 have to do with  
21 increasing public confidence in voting?

22 MR. SWEETEN: I'm going to instruct you to  
23 answer only based upon matters in the public record.  
24 Don't reveal conversations that we've previously  
25 enumerated, including legislators, legislative staff,

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1 et cetera.

2 A. My knowledge, increasing voter confidence by  
3 giving election workers a tool to verify people are who  
4 they say they are when they go to vote.

5 Q. (By Ms. Westfall) Do you have any -- can you  
6 point me to any research studies or analysis that would  
7 show there's an increase in public confidence when photo  
8 ID laws are enacted?

9 A. In committee there was testimony from the  
10 Secretary of State, Georgia Secretary of State, who  
11 testified that voter turnout increased after their voter  
12 identification laws were implemented. Indiana, also,  
13 there was a representative from the state of Indiana who  
14 testified to the same, that when Indiana's voter  
15 identification laws were implemented, voter turnout  
16 increased.

17 Q. And was there any exploration during the  
18 hearing of whether any other factors increased voter  
19 turnout in Georgia or Indiana other than photo ID laws?

20 A. Yes. I remember a discussion regarding the  
21 2008 election.

22 Q. And it was possible that was the presidential  
23 election and there was significant turnout and interest  
24 in that election?

25 A. Correct.

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1 Q. Is that correct?

2 A. Correct.

3 Q. And it's true that the increase in turnout  
4 might not have had anything to do with the photo ID law  
5 in place; is that correct?

6 MR. SWEETEN: Objection, argumentative.

7 A. The --

8 MS. WESTFALL: You can answer.

9 MR. SWEETEN: Keep your matters -- keep  
10 what your testimony is to matters of public record. I  
11 think she is asking about the hearing so you're free to  
12 do that.

13 A. The information showed that even after the  
14 presidential election, I believe in 2010, that there was  
15 also an increase in turnout. I know from the Secretary  
16 of State's office, Georgia Secretary of State, provided  
17 us with that information, the committee.

18 Q. (By Ms. Westfall) And it had been specifically  
19 attributed to photo ID through an analysis that you're  
20 aware of?

21 A. That was his testimony. He attributed it.

22 Q. Are there any other studies or research that  
23 you're aware of related to increases in public  
24 confidence as a result of photo ID?

25 A. I believe I have seen some studies that show

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1 that.

2 Q. Did you take into account as you were drafting  
3 SB 14 or considering SB 14 any studies about public  
4 confidence?

5 MR. SWEETEN: Don't reveal any  
6 legislatively privileged matters. You can testify about  
7 matters of public record, but any discussions,  
8 conversations that you've had, don't reveal those.

9 A. Did I -- did I consider any?

10 Q. (By Ms. Westfall) Studies or research on  
11 increases in public confidence?

12 A. Did I -- yes, they were considered.

13 Q. What were those?

14 A. The studies, I can't say specifically. I  
15 remember reading -- reading studies on that issue --

16 Q. Is this --

17 A. -- which point -- the studies pointed to  
18 Indiana and Georgia as positive. There was a positive  
19 result after the voter -- voter -- voter identification  
20 laws had been passed, there was a positive result in  
21 turnout.

22 Q. Did the Texas legislature find any -- that  
23 there was a problem with public confidence in voting?

24 MR. SWEETEN: Don't reveal any matters  
25 that are legislatively privileged, including all the

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1 MR. SWEETEN: Objection. I think that

2 misstates his testimony, but go ahead. You can answer

3 A. My understanding was that that was my personal  
4 -- there are -- there was testimony. There was  
5 discussion about that. Other people might -- I'd have  
6 to go back and look, but I thought that was regarding  
7 myself.

8 Q. (By Ms. Westfall) What -- what hearing are you  
9 talking about at which individuals testified about  
10 concerns about public confidence in voting?

11 A. I believe it was discussed on the floor as well  
12 as in committee. I'm not --

13 Q. Does --

14 A. There were lengthy committees and they -- it  
15 was also discussed in the Senate, so it might have been  
16 brought up in the Senate as well. I can't identify  
17 which committee hearing that came from, but I know it  
18 was an issue that was discussed.

19 Q. There was testimony before the House or Senate  
20 committees from a particular witness on voter  
21 confidence, public confidence?

22 A. Yes, I believe so.

23 Q. Do you know the name or identity of the  
24 witness?

25 A. No, I do not.

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1 conversations that we've enumerated previously. You can  
2 go ahead and testimony based on matters of the public  
3 record on that issue.

4 A. Yes. I think there was discussion about there  
5 being a problem of -- the problem with voter confidence  
6 in elections, I remember that being discussed during the  
7 debate.

8 Q. (By Ms. Westfall) What was the basis of that  
9 concern factually?

10 MR. SWEETEN: Confine to matters of the  
11 public record. Don't reveal legislatively privileged  
12 information.

13 A. I remember from the testimony there were  
14 accounts of -- from constituents of incidences, some  
15 personal accounts of witnessing incidences of voter --  
16 voter fraud.

17 Q. (By Ms. Westfall) Are you talking about  
18 in-person voter impersonation or other forms of voter  
19 fraud?

20 MR. SWEETEN: Same instruction.

21 A. All forms.

22 Q. (By Ms. Westfall) I believe you testified  
23 earlier you were unaware of any specific allegations of  
24 in-person voter impersonation or convictions based on  
25 that crime; is that correct?

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1 Q. Do you know the year in which this testimony  
2 occurred?

3 A. This most recent session, 2011.

4 Q. Who are the main opponents of Senate Bill 14?

5 MR. SWEETEN: Confine your answer to  
6 matters of the public record. Don't reveal  
7 conversations with other legislators, other staff.

8 A. I believe the vote was along party lines, so I  
9 would say the Democratic members of the House and  
10 Senate.

11 Q. (By Ms. Westfall) And were there any outside  
12 groups that opposed the bill?

13 A. Yes.

14 Q. What were those groups?

15 MR. SWEETEN: Don't reveal legislatively  
16 privileged matters, including constituent  
17 correspondence, discussions with legislators, as well as  
18 other staffers. You can confine your answer to the  
19 matters of the public record.

20 A. The minority interest groups, the League of  
21 Women Voters, I believe.

22 Q. (By Ms. Westfall) How did you learn about  
23 their opposition?

24 A. Through my research. They were -- weren't shy  
25 about it.

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1 Q. Was there any opposition to SB 14 amongst  
2 election officials in Texas?  
3 A. Election officials meaning?  
4 Q. Secretary of State or county officials?  
5 A. Was there any opposition, yes.  
6 MR. SWEETEN: Just confine your answers to  
7 matters of the public record. Don't reveal any  
8 categories of information we've gone over many times.  
9 Q. (By Ms. Westfall) Your answer was "yes"?  
10 A. I believe there was concern from local  
11 officials.  
12 Q. And which local officials?  
13 A. I can't remember who exactly.  
14 Q. What were those concerns?  
15 A. I remember one local official account of  
16 concerns regarding the costs associated with  
17 implementation of the bill.  
18 Q. Who was that county official?  
19 A. I don't remember.  
20 Q. What county was it?  
21 A. I don't remember.  
22 Q. How did you learn about this concern?  
23 A. Through the media.  
24 Q. Were there any constituents who had any  
25 concerns about SB 14 other than the minority voting

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1 rights groups that you just testified about?  
2 MR. SWEETEN: Don't reveal matters or  
3 discussions between constituents and you or  
4 Representative Harless or in any other areas of  
5 conversation that we discussed earlier, including  
6 legislators, legislative staff, state agencies,  
7 regarding that.  
8 A. Yes. There were constituents who had concerns  
9 as well.  
10 Q. (By Ms. Westfall) What were their concerns?  
11 MR. SWEETEN: Same instruction.  
12 A. I think expressing their concerns would take me  
13 into the privileged area of communications.  
14 Q. (By Ms. Westfall) So you have no answer to  
15 that question?  
16 A. Correct.  
17 Q. Did Representative Harless take any steps to  
18 address any of the concerns raised by bill opponents.  
19 MR. SWEETEN: Don't reveal communications  
20 that are legislatively privileged. If you cannot do so  
21 without -- if you cannot answer the question without  
22 doing so, then do not answer the question.  
23 A. I think my answer would get into that so I  
24 would say no. It would -- my answer would get into that  
25 privilege so no.

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1 Q. (By Ms. Westfall) Can you point to anything in  
2 SB 14 that was added in the House in response to  
3 concerns by groups or individuals representing minority  
4 voters?  
5 MR. SWEETEN: You can confine your answers  
6 to the public record. Do not reveal legislatively  
7 privileged information.  
8 MS. WESTFALL: Mr. Sweeten, I'm asking  
9 about a publicly signed law, and I'm asking him about  
10 provisions in the law. I'm not asking him about  
11 privileged communications. Would you please withdraw?  
12 MR. SWEETEN: What was your question  
13 again?  
14 MS. WESTFALL: I said -- my question was:  
15 Is there any provision in SB 14 that was added in  
16 response to concerns raised by people, groups  
17 representing minority voters or minority voters  
18 themselves? Anything in the law?  
19 MR. SWEETEN: You can confine your answers  
20 to matters of the public record. Do not reveal  
21 communications as we've outlined before between  
22 legislators, legislative staff, state agencies, Texas  
23 legislative council, constituents.  
24 A. Okay. I know from the debate there were  
25 several amendments offered by opponents to the bill that

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1 were to address concerns.  
2 Q. (By Ms. Westfall) And were any of them  
3 adopted?  
4 A. Yes.  
5 Q. Which ones?  
6 MR. SWEETEN: Same instruction.  
7 A. Specifically, I can't remember which amendments  
8 were the total number of amendments which were added in  
9 the Senate.  
10 Q. (By Ms. Westfall) Could you confine your  
11 answer to the House?  
12 A. Well, I can -- I can -- I remember from some of  
13 the debate, so I was going to -- just was clarifying  
14 that this is not the sum total of all the changes that  
15 were made by opponents to the bill.  
16 And Senator Davis had a -- Senator Davis  
17 had an amendment to allow for there to be substantially  
18 similar -- when an election worker is reviewing the  
19 identification, the names can be substantially similar.  
20 That was -- that was added in the Senate and kept in the  
21 bill through the House. And that was to address  
22 concerns from that there would be -- that was to address  
23 some of the opponents' concerns.  
24 Q. Can you think of any other changes to the bill,  
25 or that is the sum total?

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1 MR. SWEETEN: Same instruction.  
 2 A. This is by no means the sum total, so I'm going  
 3 to qualify that.  
 4 Q. (By Ms. Westfall) As you're sitting here  
 5 today, can you think of any other, or should we move on  
 6 to another question?  
 7 A. I believe there was increased notice  
 8 requirements placed in the Senate.  
 9 Q. By "increased notice," do you mean public  
 10 notification or notice to voters?  
 11 A. Yes.  
 12 Q. Can you think of any other changes?  
 13 MR. SWEETEN: Same instruction.  
 14 A. I apologize. I was looking at the -- the  
 15 language regarding the election identification  
 16 certificate, I believe that was an issue.  
 17 Q. (By Ms. Westfall) Was that certificate put in  
 18 the bill in response to the concerns of minority groups?  
 19 MR. SWEETEN: Same objection and  
 20 instruction.  
 21 A. It was a concern first brought up by  
 22 Representative Anchia during the House debate, and that  
 23 language is -- was in response.  
 24 Q. Anything else?  
 25 MR. SWEETEN: Same instruction.

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1 A. The disability exemption was something we heard  
 2 from that was, I believe, a concern and --  
 3 Q. (By Ms. Westfall) Was that a concern of  
 4 minority voters?  
 5 A. I'm sorry. Okay. (Reading document.)  
 6 I'll leave it there. That's my -- that's,  
 7 from reviewing it, that's not the sum total of the  
 8 changes that were done on behalf of --  
 9 Q. But that's, sitting here today, you're here to  
 10 testify. I gave you plenty of opportunity to testify  
 11 about all changes that were made to the bill in response  
 12 to minority concerns, and you've testified, and that's  
 13 your testimony today; is that correct?  
 14 A. That's correct.  
 15 Q. And to clarify in terms of the concerns about  
 16 the bill from minority voting groups and minority  
 17 voters, did Representative Harless seek those opinions  
 18 out from those groups, or were those -- was that  
 19 opposition in the public sphere, and you became aware of  
 20 them that way?  
 21 MR. SWEETEN: Don't reveal any matters  
 22 that are legislatively privileged. Don't reveal  
 23 conversations that I've enumerated previously. You can  
 24 testimony based upon matters that are public record.  
 25 A. I can't speak for Representative Harless, but

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1 these groups, the information was -- their opposition  
 2 was -- was out there in the public sphere.  
 3 Q. (By Ms. Westfall) So you're saying the way you  
 4 learned about it was -- was from it being in the public  
 5 sphere; is that correct?  
 6 A. Their concerns?  
 7 Q. Yes.  
 8 A. Through the debate and my research on the  
 9 issue, yes.  
 10 Q. Were you concerned that failing to address the  
 11 concerns of minority voters might have an impact on  
 12 preclearance of SB 14 under Section 5 of the Voting  
 13 Rights Act?  
 14 MR. SWEETEN: Was he personally  
 15 concerned? Is that the question?  
 16 MS. WESTFALL: Yes.  
 17 MR. SWEETEN: Okay. I'm going to let you  
 18 answer that question, but I want you to confine any sort  
 19 of information you learned about this from any of the  
 20 sources we've enumerated to the matters of the public  
 21 record. Otherwise, don't answer it and reveal its  
 22 communication.  
 23 A. Okay. My concerns were that the legislation  
 24 would comply with federal law and in so much as those  
 25 minority concerns meshed with that. It was something

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1 that I did, I did think about, of course.  
 2 MR. SWEETEN: I also object to the last  
 3 question, based on it assumes facts not in evidence, but  
 4 go ahead.  
 5 Q. (By Ms. Westfall) Did you take any steps to  
 6 address your concerns that not responding to the  
 7 concerns of minority voters could have an adverse impact  
 8 on Session 5 consideration of SB 14?  
 9 MR. SWEETEN: Don't reveal any  
 10 communications you've had with legislators, staff  
 11 members, state agencies, et cetera.  
 12 THE WITNESS: Oh, okay.  
 13 MR. SWEETEN: As I've previously  
 14 instructed.  
 15 A. I thought the bill as it was drafted would --  
 16 would comply.  
 17 Q. (By Ms. Westfall) So you took no steps,  
 18 because you thought the bill was satisfactory; is that  
 19 correct?  
 20 A. I took no steps to address --  
 21 Q. The concerns of minority voters, because you  
 22 thought they were adequately addressed; is that correct?  
 23 A. I don't know if feel comfortable saying that  
 24 the concerns of minority -- that's pretty broad. That's  
 25 a large -- that's a large number, so unless it's a

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1 specific one, I can't answer that.  
 2 Q. Does Representative Harless have any minority  
 3 groups as recipients of her newsletter distribution or  
 4 her e-mail blasts?  
 5 A. I don't know.  
 6 MS. WESTFALL: Okay. Why don't we take a  
 7 break for a few minutes?  
 8 (Recess 3:10 p.m. to 3:25 p.m.)  
 9 MS. WESTFALL: We're back on the record.  
 10 Q. (By MS. WESTFALL) You testified earlier about  
 11 studies and research that you had done in advance of  
 12 drafting SB 14. Did you share any of those studies with  
 13 Representative Harless?  
 14 MR. SWEETEN: Don't reveal any  
 15 communications you've had with Representative  
 16 Harless. I instruct you not to answer.  
 17 MS. WESTFALL: As to whether he shared any  
 18 studies with Representative Harless?  
 19 MR. SWEETEN: He's not going to reveal any  
 20 communications that he's had with Representative  
 21 Harless. I'm going to instruct him not to answer based  
 22 on that question.  
 23 Q. (By MS. WESTFALL) Did Representative Harless  
 24 make any public statements about the opposition to  
 25 SB 14?

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1 A. I don't remember.  
 2 Q. Did you handle her public statements on SB 14?  
 3 A. I believe her public statements are her own.  
 4 Q. Did you draft press releases for her?  
 5 A. I was the contact person for press releases.  
 6 Q. Did you draft the press releases?  
 7 A. Yes.  
 8 Q. Did you draft all the press releases on SB 14?  
 9 A. I believe so.  
 10 Q. How many were there?  
 11 A. Two or three.  
 12 Q. What was the first one that you issue about?  
 13 A. We did a press release when it was determined  
 14 that we would be lead House sponsor of Senate Bill  
 15 14. We did a press release on passage, House passage of  
 16 Senate Bill 14. There was another one, I believe,  
 17 another press release on Senate Bill 14 regarding the  
 18 Department of Justice rejection of -- the Department of  
 19 Justice denying preclearance, and we did a press release  
 20 for that as well.  
 21 Q. Did you draft all three of those?  
 22 A. Yes.  
 23 Q. Do you recall what the first press release  
 24 said?  
 25 A. No.

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1 Q. Did Representative Harless ever discuss whether  
 2 SB 14 might disproportionately impact minority voters?  
 3 MR. SWEETEN: Don't reveal communications  
 4 you've had with Representative Harless. To the extent  
 5 that public statements made that can help you answer  
 6 that question, you can rely on the public record.  
 7 A. Did Representative Harless make any statements  
 8 regarding whether --  
 9 Q. (By MS. WESTFALL) Whether SB 14 might  
 10 disproportionately impact minority voters?  
 11 A. I don't recall.  
 12 Q. Is it possible she might have?  
 13 MR. SWEETEN: Are you asking about public  
 14 statements or are you talking about -- obviously, he  
 15 can't --  
 16 MS. WESTFALL: I'm asking about --  
 17 MR. SWEETEN: -- discuss the statements  
 18 that he's made.  
 19 Q. (By MS. WESTFALL) I'm asking about any  
 20 statements that Representative Harless has ever made or  
 21 discussions she's had about possible impact of SB 14 on  
 22 minority voters.  
 23 A. Okay.  
 24 MR. SWEETEN: Don't reveal information  
 25 that's legislatively privileged or that -- don't reveal

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1 communications between Representative Harless and you,  
 2 Representative Harless and other legislators. You can  
 3 confine your answer to matters of public record.  
 4 A. I don't know. It's possible. I don't know.  
 5 Q. (By MS. WESTFALL) So as to the public record,  
 6 you don't know; is that your testimony?  
 7 A. Correct.  
 8 Q. Have you ever had any discussion with  
 9 Representative Harless about whether SB 14 might  
 10 disproportionately impact minority voters?  
 11 MR. SWEETEN: Don't answer that question.  
 12 It's legislatively privileged.  
 13 Q. (By MS. WESTFALL) Are you aware of whether  
 14 Representative Harless has ever discussed whether SB 14  
 15 might disproportionately impact minority voter with  
 16 persons other than yourself?  
 17 MR. SWEETEN: Don't reveal communications  
 18 that you had or that you're aware of that she had with  
 19 legislators, legislator staff, state agencies. You can  
 20 confine your answer to matters of the public record.  
 21 A. I don't recall. I can't speak for  
 22 Representative Harless, so I don't recall.  
 23 Q. (By MS. WESTFALL) And so your answer is to  
 24 public information; is that correct?  
 25 A. Correct.

<p style="text-align: center;">177</p> <p>1 Q. And you're not testifying about any other</p> <p>2 conversations that Representative Harless might have had</p> <p>3 based on the advice of counsel?</p> <p>4 A. Correct. I don't know of those conversations,</p> <p>5 so...</p> <p>6 Q. Was Representative Harless concerned that SB 14</p> <p>7 might disproportionately impact minority voters?</p> <p>8 MR. SWEETEN: Don't reveal communications</p> <p>9 that you've had with Representative Harless. You can</p> <p>10 testify as to matters of the public record as to that</p> <p>11 issue.</p> <p>12 THE WITNESS: Okay.</p> <p>13 MR. SWEETEN: Objection, calls for</p> <p>14 speculation. Go ahead.</p> <p>15 A. I would -- based upon the privilege, I would</p> <p>16 say I don't know.</p> <p>17 Q. (By MS. WESTFALL) You do know the public</p> <p>18 record?</p> <p>19 A. I can't -- I can't speculate to her -- her</p> <p>20 thoughts.</p> <p>21 Q. Right. But your testimony is just about the</p> <p>22 public record. Are you aware of any indication in the</p> <p>23 public record where Representative Harless indicated any</p> <p>24 concern about the impact of SB 14 on minority voters?</p> <p>25 MR. SWEETEN: You can answer.</p>	<p style="text-align: center;">179</p> <p>1 Q. (By MS. WESTFALL) With whom?</p> <p>2 A. Regarding?</p> <p>3 Q. Regarding the opposition to SB 14.</p> <p>4 MR. SWEETEN: Same objection and</p> <p>5 instruction.</p> <p>6 THE WITNESS: Okay.</p> <p>7 A. Conversations with staff regarding opposition</p> <p>8 of Senate Bill 14.</p> <p>9 Q. (By MS. WESTFALL) You had conversations with</p> <p>10 staff?</p> <p>11 A. No. That's your question. I'm sorry. I'm</p> <p>12 repeating your question.</p> <p>13 Q. My question is: Did you, outside of</p> <p>14 Representative Harless's presence, have any discussions</p> <p>15 about the opposition to SB 14?</p> <p>16 A. Okay.</p> <p>17 MR. SWEETEN: And, again, the same</p> <p>18 instruction.</p> <p>19 THE WITNESS: Okay.</p> <p>20 A. Yes. And then you asked with who, correct?</p> <p>21 Okay. The individuals, the staff I have mentioned. I</p> <p>22 believe I had conversations regarding the opposition</p> <p>23 with the staff I've mentioned previously, as well as</p> <p>24 other legislators' staff.</p> <p>25 Q. (By MS. WESTFALL) And you're talking about</p>
<p style="text-align: center;">178</p> <p>1 A. No, I'm not aware of any.</p> <p>2 Q. (By MS. WESTFALL) Did Representative Harless</p> <p>3 seek any advice from anyone on whether SB 14 complied</p> <p>4 with Section 5 of the Voting Rights Act?</p> <p>5 MR. SWEETEN: Again, don't reveal</p> <p>6 conversations that Representative Harless had with any</p> <p>7 legislators or with any staff members with TLC or state</p> <p>8 agencies' constituents. To the extent you can answer it</p> <p>9 without revealing those, you can go ahead and do so.</p> <p>10 A. Based on the public record, I'm not aware of.</p> <p>11 Q. (By MS. WESTFALL) And you're acting on the</p> <p>12 advice of counsel not to testify about any private</p> <p>13 conversations that Representative Harless might have had</p> <p>14 about SB 14 and the Voting Rights Act; is that correct?</p> <p>15 A. That's correct.</p> <p>16 Q. Did you, outside of Representative Harless's</p> <p>17 presence, have any discussions yourself about opposition</p> <p>18 to SB 14?</p> <p>19 MR. SWEETEN: Don't reveal communications</p> <p>20 that you've had with other legislators, their staff,</p> <p>21 state agencies, TLC, or Representative Harless herself.</p> <p>22 To the extent that you can answer that question without</p> <p>23 revealing those, you can go ahead and do so, including</p> <p>24 matters of the public record.</p> <p>25 A. Did I -- did I have conversations? Yes.</p>	<p style="text-align: center;">180</p> <p>1 staff from Senator Fraser's office, the Lieutenant</p> <p>2 Governor's Office, Speaker Straus's Office; is that</p> <p>3 correct?</p> <p>4 A. Correct.</p> <p>5 Q. And as a result of those conversations, were</p> <p>6 any changes made to SB 14?</p> <p>7 A. I think --</p> <p>8 MR. SWEETEN: Don't reveal any sort of</p> <p>9 privileged information.</p> <p>10 THE WITNESS: Okay.</p> <p>11 MR. SWEETEN: Okay? Don't reveal the</p> <p>12 conversations that you've had with anyone that are</p> <p>13 legislatively privileged. I've enumerated what those</p> <p>14 are. So don't reveal that information.</p> <p>15 A. I think my conversations with those staff</p> <p>16 members would be within the privilege.</p> <p>17 Q. (By MS. WESTFALL) When did you have those</p> <p>18 conversations with the staff members about opposition to</p> <p>19 SB 14?</p> <p>20 A. From January until passage of the bill.</p> <p>21 Q. Did you have many, many conversations about the</p> <p>22 opposition to SB 14?</p> <p>23 MR. SWEETEN: Objection, vague.</p> <p>24 Q. (By MS. WESTFALL) Did you have them on a</p> <p>25 periodic basis?</p>

<p style="text-align: center;">181</p> <p>1 A. Representative Harless was the House sponsor of</p> <p>2 the legislation. I think staff knew that I was -- yes,</p> <p>3 there were many conversations with staff.</p> <p>4 Q. And what were the nature of your discussions</p> <p>5 about the opposition of SB 14 with staff and Senator</p> <p>6 Fraser's office?</p> <p>7 MR. SWEETEN: Don't answer the question.</p> <p>8 It would reveal legislatively-privileged information.</p> <p>9 Q. (By MS. WESTFALL) What was the nature of the</p> <p>10 conversations that you had with staff in the Lieutenant</p> <p>11 Governor's Office?</p> <p>12 MR. SWEETEN: Same objection. Same</p> <p>13 instruction.</p> <p>14 Q. (By MS. WESTFALL) What was the nature of the</p> <p>15 conversations that you had with staff in Speaker</p> <p>16 Straus's office?</p> <p>17 MR. SWEETEN: Same objection. Same</p> <p>18 instruction.</p> <p>19 Q. (By MS. WESTFALL) During the drafting or the</p> <p>20 Legislature's consideration of SB 14, was there efforts</p> <p>21 to determine the number of registered voters in Texas</p> <p>22 who lack a driver's license?</p> <p>23 MR. SWEETEN: Don't reveal any</p> <p>24 legislatively-privileged discussions, conversations.</p> <p>25 That includes discussions with other staff members,</p>	<p style="text-align: center;">183</p> <p>1 ID under SB 14; is that correct?</p> <p>2 A. The issue came up. I don't know if it was</p> <p>3 Representative Anchia. The issue did come up regarding</p> <p>4 registration cards, voter registrations, and those being</p> <p>5 associated with a social security number or a driver's</p> <p>6 license number. The issue did come up, yes.</p> <p>7 Q. And was there a response from the Secretary of</p> <p>8 State's Office.</p> <p>9 MR. SWEETEN: Are you asking him in the</p> <p>10 hearing?</p> <p>11 Q. (By MS. WESTFALL) Yes, in the hearing.</p> <p>12 A. Yes. Yes.</p> <p>13 Q. There was a response? And what was the</p> <p>14 response?</p> <p>15 A. I believe the number was in the range of</p> <p>16 600,000 Texans have a voter registration card without an</p> <p>17 associated social security number or driver's license</p> <p>18 number. I can't remember the exact number. But it was</p> <p>19 in that range.</p> <p>20 Q. Was there any analysis of the racial</p> <p>21 composition of those voters?</p> <p>22 MR. SWEETEN: Are you asking about is this</p> <p>23 public record again?</p> <p>24 A. (By MS. WESTFALL) I'm asking public record,</p> <p>25 private record, every record.</p>
<p style="text-align: center;">182</p> <p>1 other legislators. That includes the state agencies.</p> <p>2 That includes constituents. That includes the TLC.</p> <p>3 THE WITNESS: Okay.</p> <p>4 MR. SWEETEN: If you can confine your</p> <p>5 answer to the matters of public record, you are free to</p> <p>6 do so.</p> <p>7 A. The committee. There was testimony that the</p> <p>8 information was sought from the Secretary of State's</p> <p>9 Office regarding those who do not have a social security</p> <p>10 number or a driver's license number associated with</p> <p>11 their voter registration.</p> <p>12 Q. (By MS. WESTFALL) How did that issue come to</p> <p>13 the attention of the committee?</p> <p>14 MR. SWEETEN: Again, don't reveal any</p> <p>15 legislatively-privileged discussions that I've</p> <p>16 enumerated previously.</p> <p>17 A. There was testimony from the Secretary of</p> <p>18 State's Office, and the issue came up. I believe</p> <p>19 Representative Anchia asked the questions regarding</p> <p>20 that.</p> <p>21 Q. (By MS. WESTFALL) Was this during the House</p> <p>22 Select Committee's consideration of SB 14?</p> <p>23 A. Yes.</p> <p>24 Q. Representative Anchia asked questions about</p> <p>25 which registered voters did not have allowable forms of</p>	<p style="text-align: center;">184</p> <p>1 MR. SWEETEN: To the extent that the</p> <p>2 question asks you to reveal conversations between</p> <p>3 legislative staff, the legislators, state agencies, the</p> <p>4 TLC, or constituents, do not reveal that information.</p> <p>5 To the extent that you can answer it without revealing</p> <p>6 those conversations or matters of the public record, you</p> <p>7 can do so.</p> <p>8 A. Based on the public record, I know the issue</p> <p>9 came up. I cannot remember at which point the Secretary</p> <p>10 of State's office does not have their voter -- racial</p> <p>11 data is not kept in -- racial data is not collected with</p> <p>12 voter registration cards, so the Secretary of State's</p> <p>13 Office, my understanding is, did not have that</p> <p>14 information.</p> <p>15 Q. (By MS. WESTFALL) So the answer my question,</p> <p>16 there was no racial analysis -- there was no analysis by</p> <p>17 race of persons who are registered voters who do not</p> <p>18 have allowable forms of ID under SB 14; is that right?</p> <p>19 MR. SWEETEN: Same instruction. Same</p> <p>20 objection.</p> <p>21 A. The Secretary of State's Office did not have</p> <p>22 the racial data associated with the voter registration</p> <p>23 data.</p> <p>24 Q. (By MS. WESTFALL) Did Representative Harless or</p> <p>25 you take any further steps to try to obtain that</p>

<p style="text-align: center;">185</p> <p>1 information during consideration of SB 14?</p> <p>2 MR. SWEETEN: Don't reveal any</p> <p>3 communications you've had with Representative Harless,</p> <p>4 that you've had with legislative staff, the state</p> <p>5 agencies, with TLC, or constituents.</p> <p>6 Q. (By MS. WESTFALL) Do you have no answer to that</p> <p>7 question?</p> <p>8 A. No answer to that question.</p> <p>9 Q. Because --</p> <p>10 A. Correct.</p> <p>11 Q. -- based on the advice of counsel that --</p> <p>12 A. Correct.</p> <p>13 Q. -- it's privileged?</p> <p>14 It was a pretty important issue, huh,</p> <p>15 figuring out the racial impact of people who did not</p> <p>16 have ID; isn't that right? A pretty important, central</p> <p>17 issue in the debate?</p> <p>18 MR. SWEETEN: Objection. Can you just</p> <p>19 keep it to one question at a time? Also, objection,</p> <p>20 argumentative.</p> <p>21 MS. WESTFALL: I will withdraw that</p> <p>22 question.</p> <p>23 Q. (By MS. WESTFALL) Was it not an important</p> <p>24 issue, during consideration of SB 14, as to the racial</p> <p>25 composition of people who did not have an allowable form</p>	<p style="text-align: center;">187</p> <p>1 instruction?</p> <p>2 THE WITNESS: Uh-huh.</p> <p>3 MR. SWEETEN: Okay. With that</p> <p>4 instruction, you can go ahead and answer, to the extent</p> <p>5 you have any information.</p> <p>6 A. My answer is not based on.</p> <p>7 Q. (By MS. WESTFALL) Because you have nothing that</p> <p>8 was in the public record that indicates an answer to my</p> <p>9 question; is that correct?</p> <p>10 A. Correct.</p> <p>11 Q. There may be something in the private record</p> <p>12 that indicates an answer to my question; is that</p> <p>13 correct?</p> <p>14 MR. SWEETEN: Don't answer that question.</p> <p>15 She is asking you about the content of communications.</p> <p>16 You don't have to answer that question. There were</p> <p>17 legislatively-privileged discussion that occurred.</p> <p>18 Q. (By MS. WESTFALL) Did the Secretary of State</p> <p>19 testify about any analysis of Spanish surname registered</p> <p>20 voters and their access to forms of allowable ID under</p> <p>21 SB 14?</p> <p>22 A. I don't recall that information being presented</p> <p>23 at the committee hearing.</p> <p>24 Q. Did Representative Harless or anyone on the</p> <p>25 committee ask for that information from the Secretary of</p>
<p style="text-align: center;">186</p> <p>1 of ID?</p> <p>2 MR. SWEETEN: I'm going to instruct you</p> <p>3 not to reveal discussions or communications between you,</p> <p>4 state agencies, legislators, legislative staff,</p> <p>5 constituents, or the TLC. To the extent you have</p> <p>6 information where you can answer her question, you can</p> <p>7 go ahead and do so.</p> <p>8 A. The information was not available from the</p> <p>9 Secretary of State's Office, because they do not collect</p> <p>10 racial data.</p> <p>11 Q. (By MS. WESTFALL) Other than making an inquiry</p> <p>12 of the Secretary of State about registered voters with</p> <p>13 forms of ID, were there any other efforts to determine</p> <p>14 the racial composition of people without allowable IDs?</p> <p>15 MR. SWEETEN: Same objection. Same</p> <p>16 instruction.</p> <p>17 A. They are the record keepers for voter</p> <p>18 registration in Texas. I think they would be the</p> <p>19 appropriate agency for that. That was -- they are the</p> <p>20 -- they did not have that information available at the</p> <p>21 committee hearing.</p> <p>22 Q. (By MS. WESTFALL) So is it your testimony there</p> <p>23 weren't further efforts other than to make that inquiry</p> <p>24 to the Secretary of State; is that correct?</p> <p>25 MR. SWEETEN: Do you understand my</p>	<p style="text-align: center;">188</p> <p>1 State?</p> <p>2 MR. SWEETEN: Do not reveal communications</p> <p>3 between you, state agencies, or any of the other</p> <p>4 enumerated areas. Okay? Don't reveal those. You can</p> <p>5 answer to the extent that you can based on public record</p> <p>6 or to the extent it doesn't implicate communications</p> <p>7 that we've outlined. Okay. Go ahead.</p> <p>8 A. No, based on --</p> <p>9 Q. (By MS. WESTFALL) There's nothing in the public</p> <p>10 record on that issue; is that correct?</p> <p>11 A. That's correct.</p> <p>12 Q. Are you aware of any efforts, at any point</p> <p>13 during the development of SB 14, to attempt to craft a</p> <p>14 bill that would accomplish the bill's objectives without</p> <p>15 disproportionately harming minority voters?</p> <p>16 MS. WESTFALL: Colby, don't reveal any</p> <p>17 communications that you've had with legislators, with</p> <p>18 legislative staff, with state agencies, the TLC, their</p> <p>19 constituents. To the extent that there's information</p> <p>20 that you have that is outside of those areas, you can go</p> <p>21 ahead and answer Ms. Westfall's question, to the extent</p> <p>22 can.</p> <p>23 A. Am I aware of any other efforts -- I'm sorry.</p> <p>24 I've got to repeat it. Am I aware of any other efforts</p> <p>25 outside of Senate Bill 14?</p>

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1 Q. (By MS. WESTFALL) During the development of  
2 SB 14, to attempt to craft a bill that would accomplish  
3 the bill's objectives without disproportionately falling  
4 upon minority voters?

5 MR. SWEETEN: Objection. Argumentative as  
6 well. Repeat my previous objection and instruction.

7 Q. (By MS. WESTFALL) You may answer.

8 A. It's my opinion that the bill addresses that as  
9 it is.

10 Q. And how does the bill address that issue?

11 A. By providing free ID, a provisional ballot  
12 period.

13 Q. Okay. We'll talk about that a little about it  
14 later.

15 Can you tell me each and every effort that  
16 is made to ensure that the forms of ID included in SB 14  
17 were equally accessible to all registered voters  
18 regardless of race or ethnicity?

19 MR. SWEETEN: Don't reveal any  
20 communications you've had with a legislative staff or  
21 legislators, with members of the TLC, state agencies, or  
22 constituents. To the extent you can answer without  
23 revealing those, you can go ahead and try to do so.

24 A. Accessibility of other IDs.

25 Q. (By MS. WESTFALL) To ensure that the forms of

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1 ID included in SB 14 were equally accessible to all  
2 voters, all registered voters regardless of race or  
3 ethnicity?

4 A. Not to my knowledge.

5 Q. There is nothing in the public record; is that  
6 correct?

7 A. Not to my knowledge. I'm -- there might be.

8 Q. But as you sit here today, you can't think of  
9 any; is that correct?

10 A. Correct.

11 Q. Thank you.

12 When was SB 14 filed in the Senate?

13 A. I'm not sure if I understand. When was the  
14 bill filed? The bill was filed --

15 Q. In the Senate?

16 A. I not sure when it was filed in the Senate.

17 Q. Was the sometime in January 2011?

18 A. The bill has a low bill number, so I imagine it  
19 was -- it's one of the bill numbers reserved.

20 MS. WESTFALL: Could you mark this as  
21 Exhibit 8, please.

22 (Exhibit 8 marked for identification.)

23 A. I imagine it was early on.

24 Q. (By MS. WESTFALL) That's a good tip about low  
25 bill numbers.

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1 A. It's not always the case. Not always the case.

2 Q. That is very sensible.

3 MS. WESTFALL: Could you hand this to the  
4 witness?

5 Q. (By MS. WESTFALL) You've been handed U.S.  
6 Exhibit 8. Do you recognize this document?

7 A. This is a printout of the bill history of  
8 Senate Bill 14 from, it looks like, the Texas  
9 Legislature online.

10 Q. Have you seen this document before?

11 A. I've seen a similar document. Yes, I've seen a  
12 similar document.

13 Q. Could you -- referring to Exhibit U.S. 8, could  
14 you tell me when Senate Bill 14 was filed in the Senate?

15 A. The 12th of January 2011.

16 Q. And what is a House Select Committee? And you  
17 can turn your attention away from that, but hold on to  
18 that, because we may look at it again.

19 A. Okay.

20 Q. What is a House Select Committee?

21 A. A Select Committee is -- it's outside of the  
22 standard -- sorry, not standard. The standing  
23 committees that the House has. It's a separate  
24 committee outside of the standing committees.

25 Q. Are you familiar with the House Select

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1 Committee on voter identification and voter fraud?

2 A. I am.

3 Q. Could you describe the committee for me?

4 A. The -- describe the committee? The makeup of  
5 the committee?

6 Q. Or the purpose of the committee.

7 A. Oh, okay.

8 Q. Tell me about the committee.

9 A. The committee was tasked with legislation  
10 regarding voter identification and voter fraud, and it  
11 was created for that purpose.

12 Q. Was it convened for one legislative session  
13 only?

14 A. I can't speak to future, future sessions. It  
15 was created in the 82nd Legislative Session.

16 Q. Can you describe the circumstances of the  
17 committee's creation?

18 MR. SWEETEN: Don't reveal any  
19 communications that are legislatively privileged that  
20 we've previously outlined. But go ahead, you can answer  
21 the question to the extent you can do so without  
22 revealing those.

23 A. To my knowledge, from news reports and the  
24 public record, is that it was created for the specific  
25 purpose of the voter identification legislation.

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1 Q. (By MS. WESTFALL) Was Speaker Straus behind its  
2 creation?

3 MR. SWEETEN: Don't reveal any  
4 legislatively-privileged communications. To the extent  
5 that you -- and also objection, speculation. But to the  
6 extent you can answer that question based on -- without  
7 revealing those, go ahead.

8 A. Typically, the Speaker's office is responsible  
9 for creating -- creating committees.

10 Q. (By MS. WESTFALL) Including special committees?

11 A. Yes.

12 Q. Or -- I'm sorry, Select Committees?

13 A. Yes.

14 Q. And was it your understanding that Speaker  
15 Straus and his office was involved in creating the House  
16 select Committee on voter identification and voter fraud  
17 in 2011?

18 MR. SWEETEN: Objection, calls for  
19 speculation.

20 A. I can't speculate, but typically, the Speaker's  
21 Office has the ability to create committees.

22 Q. (By MS. WESTFALL) Would anyone else in  
23 leadership have been involved in the creation of the  
24 committee?

25 MR. SWEETEN: Objection, speculation.

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1 Also, don't reveal legislatively-privileged  
2 communications. But go ahead.

3 A. I don't know if anybody else was involved.

4 Q. (By MS. WESTFALL) How many bills did the Select  
5 Committee on -- and I'm just going to refer to this as  
6 the Select Committee, if that's okay, for purposes of  
7 this discussion. How many bills did the Select  
8 Committee consider?

9 A. There were several bills that were referred to  
10 the committee. I believe the -- Senate Bill 14 was the  
11 single bill heard by the committee.

12 Q. Did it hear any bills on mail-in ballot fraud  
13 that were filed in 2011?

14 A. No. I believe those were referred to the  
15 Committee on Elections.

16 Q. Why did they go to the Committee on Elections?

17 MR. SWEETEN: Objection, calls for  
18 speculation. You can answer to the extent you're not  
19 revealing legislatively-privileged communications. Go  
20 ahead.

21 A. I can't speculate as to why they went where  
22 they did.

23 Q. (By MS. WESTFALL) Did Representative Harless  
24 serve on the Select Committee?

25 A. Yes.

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1 Q. Can you tell me about the circumstances under  
2 which she was appointed to that committee?

3 MR. SWEETEN: Don't reveal any  
4 communications that I've previously outlined that are  
5 legislatively privileged. To the extent you can answer  
6 without revealing those, you can go ahead.

7 A. I don't know the circumstances behind her  
8 appointment.

9 Q. (By MS. WESTFALL) How did you first learn about  
10 her appointment?

11 MR. SWEETEN: Don't reveal any  
12 legislatively-privileged communications. You can answer  
13 to the extent you have information outside of that.

14 A. I believe it was a press release from the  
15 Speaker's Office.

16 Q. (By MS. WESTFALL) Is that ordinarily how you  
17 learn about Representative Harless's appointments to  
18 committees, is via a press release?

19 A. Typically, that's how it's done. A press  
20 release to all the members so they all find out at the  
21 same time. That's how I learned of it.

22 Q. When was the first time that the committee met?

23 A. Early March.

24 Q. How many times did the committee meet?

25 A. Less than five times. I believe it was four,

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1 but I cannot be sure on that. I think it was four  
2 times. Less than five.

3 Q. Do members of the House generally submit their  
4 preferences for serving on committees to the Speaker's  
5 office?

6 A. Yes.

7 Q. Do you know whether Representative Harless  
8 indicated to the Speaker's Office that she wanted to  
9 serve on the Select Committee?

10 MR. SWEETEN: If that's a matter of public  
11 record, you can feel free to answer that. If it's  
12 something that falls within what we've outlined as being  
13 legislatively privileged, do not.

14 THE WITNESS: Okay.

15 Q. (By MS. WESTFALL) Can you not answer that  
16 question?

17 A. I can't answer that question.

18 Q. On the basis of it being privileged, on the  
19 basis of counsel's advice?

20 A. Correct.

21 Q. When did Senate Bill 14 pass the Senate? And  
22 if you want to take a look at Exhibit 8, feel free to do  
23 so.

24 A. Senate Bill 14 was reported engrossed on  
25 January 26th, 2011. It was received by the House on the

<p style="text-align: center;">197</p> <p>1 27th of January.</p> <p>2 Q. How usual is it for a bill of this substantive</p> <p>3 nature to be enacted in one chamber in two weeks on</p> <p>4 January?</p> <p>5 MR. SWEETEN: Objection, assumes facts not</p> <p>6 in evidence. Objection, calls for speculation. You can</p> <p>7 answer if you have information responsive to that</p> <p>8 question. So don't reveal any legislatively-privileged</p> <p>9 information.</p> <p>10 MS. WESTFALL: Mr. Sweeten, I think the</p> <p>11 timing of bills being passed is a matter of public</p> <p>12 record, and you have no basis for making a privilege</p> <p>13 objection.</p> <p>14 MR. SWEETEN: Well, I mean, first of all,</p> <p>15 with respect to my objections, you loaded that question</p> <p>16 chock full of conclusory statements.</p> <p>17 MS. WESTFALL: Those are different</p> <p>18 objections.</p> <p>19 MR. SWEETEN: So those are my objections.</p> <p>20 MS. WESTFALL: That's not basis for</p> <p>21 instructing the witness not to answer.</p> <p>22 MR. SWEETEN: Okay. And I'm not</p> <p>23 instructing him not to answer. I'm instructing him not</p> <p>24 to reveal privileged information, if he needs to do so</p> <p>25 in order to answer that question. I'm not saying he</p>	<p style="text-align: center;">199</p> <p>1 nature, such as Senate Bill 14?</p> <p>2 A. Not that I recall.</p> <p>3 Q. Did you or Representative Harless have any</p> <p>4 involvement in the Senate's consideration of SB 14 from</p> <p>5 the time it was filed on January 12th until it was</p> <p>6 referred to the Select Committee?</p> <p>7 MR. SWEETEN: Don't reveal any</p> <p>8 legislatively-privileged communications. I've outlined</p> <p>9 before.</p> <p>10 A. Do we have any involvement in the sense -- no.</p> <p>11 Q. (By MS. WESTFALL) So you simply watched what</p> <p>12 happened in the Senate? Is that your testimony?</p> <p>13 A. That's correct. And I'm speaking of behalf of</p> <p>14 myself, not Representative Harless. I had no</p> <p>15 involvement in it. I was a spectator.</p> <p>16 Q. Do you know whether she had any involvement in</p> <p>17 SB 14, from the time it was filed in the Senate to the</p> <p>18 time it was referred to the House Committee?</p> <p>19 MR. SWEETEN: Same instruction.</p> <p>20 A. Not to my knowledge.</p> <p>21 Q. (By MS. WESTFALL) Not to your knowledge based</p> <p>22 on the public record? Is that your testimony?</p> <p>23 A. That's, I think -- I don't want to -- I don't</p> <p>24 know if she did.</p> <p>25 Q. Have any private conversations?</p>
<p style="text-align: center;">198</p> <p>1 does. I've already instructed him, he can testify as to</p> <p>2 the public record. So if it truly is public record,</p> <p>3 he's free to answer that question.</p> <p>4 MS. WESTFALL: I'm not sure how it could</p> <p>5 possibly be privileged.</p> <p>6 MR. SWEETEN: Okay. Well, and the</p> <p>7 instruction don't apply, then, if it's publicly</p> <p>8 available.</p> <p>9 MS. WESTFALL: Then I'm not sure why you</p> <p>10 made the objection.</p> <p>11 Q. (By MS. WESTFALL) Can you think of any other</p> <p>12 bills that are substantive that got passed in two weeks</p> <p>13 in the Senate?</p> <p>14 A. I'm not a Senate historian, so I can't speak to</p> <p>15 that.</p> <p>16 Q. You've worked in the Senate since 2003, have</p> <p>17 you not?</p> <p>18 A. I have worked in the Senate since 2003, so I</p> <p>19 can speak to that. Past 2003, I'm no expert. The</p> <p>20 emergency legislation, I guess it's possible. That is</p> <p>21 in the beginning of the session, so it is...</p> <p>22 Q. Can you recall, based on your experience</p> <p>23 working in the Senate from 2003 to the present, whether</p> <p>24 any other substantive bills have been enacted in the</p> <p>25 Senate in two weeks in January, that are substantive in</p>	<p style="text-align: center;">200</p> <p>1 A. I can't speak for her, so I don't know her</p> <p>2 involvement.</p> <p>3 Q. Did you have any conversations or</p> <p>4 communications with the media or the public when SB 14</p> <p>5 was filed in January?</p> <p>6 MR. SWEETEN: If they're public</p> <p>7 communications, if there's discussions with the media,</p> <p>8 I'm going to let you answer that. If it's says to</p> <p>9 constituent communications, I think that that would be</p> <p>10 privileged, so I don't want you to provide that</p> <p>11 information.</p> <p>12 A. I don't recall having any conversations with</p> <p>13 the media on the filing of Senate Bill 14.</p> <p>14 Q. (By MS. WESTFALL) Did Representative Harless?</p> <p>15 A. Not to my knowledge.</p> <p>16 Q. Can you describe the Select Committee's</p> <p>17 consideration of SB 14?</p> <p>18 MR. SWEETEN: You're asking about matters</p> <p>19 of the public record, is that correct, the</p> <p>20 consideration?</p> <p>21 MS. WESTFALL: No. I'm asking about</p> <p>22 public and private consideration by the Select Committee</p> <p>23 of SB 14.</p> <p>24 MR. SWEETEN: Well, I don't want you to</p> <p>25 are reveal any communications that we have already</p>

<p style="text-align: center;">201</p> <p>1 outlined or that are legislatively-privileged, but to</p> <p>2 the extent that you have information that is not</p> <p>3 legislatively-privileged.</p> <p>4 A. Can I get, because -- I was -- what was the</p> <p>5 question again?</p> <p>6 Q. (By MS. WESTFALL) Can you describe the</p> <p>7 committee's consideration of SB 14?</p> <p>8 A. Okay.</p> <p>9 MR. SWEETEN: You can testify about</p> <p>10 matters of the public record, okay? Don't reveal</p> <p>11 communications that have -- that you're aware of that</p> <p>12 occurred between legislators, legislative staff, TLC,</p> <p>13 state agencies, or constituents.</p> <p>14 THE WITNESS: Okay.</p> <p>15 A. The committee process, there was a full day</p> <p>16 hearing in early March on the issue. I believe it began</p> <p>17 early in the morning and continued. There was a break</p> <p>18 during the legislative session. Then the committee</p> <p>19 readjusted after session and continued to hear</p> <p>20 testimony from the -- and invited testimony as well as</p> <p>21 public testimony. There was a considerable.</p> <p>22 Q. (By MS. WESTFALL) And were any substantive</p> <p>23 changes made to SB 14 during the committee's</p> <p>24 consideration of it?</p> <p>25 A. There were not -- no, there were not any</p>	<p style="text-align: center;">203</p> <p>1 DPS?</p> <p>2 MR. SWEETEN: Unless matter is a matter of</p> <p>3 public record, you do not have to reveal that</p> <p>4 information. That is legislatively-privileged.</p> <p>5 Q. (By MS. WESTFALL) Do you have any answer based</p> <p>6 on public record?</p> <p>7 A. There was an expert witness in committee from</p> <p>8 DPS.</p> <p>9 Q. Which prompted you to contact DPS?</p> <p>10 A. Yes.</p> <p>11 Q. Do you have any further explanation of why you</p> <p>12 contacted DPS, based on this expert testimony?</p> <p>13 MR. SWEETEN: And based on the public</p> <p>14 record. Don't reveal legislatively-privileged</p> <p>15 communications.</p> <p>16 A. No.</p> <p>17 Q. (By MS. WESTFALL) What did you learn from DPS?</p> <p>18 MR. SWEETEN: I'm going to advise you not</p> <p>19 reveal that conversation.</p> <p>20 MS. WESTFALL: Is this based on</p> <p>21 legislative privilege, Mr. Sweeten.</p> <p>22 MR. SWEETEN: It is. Legislative fact</p> <p>23 gathering is within the privilege. We've asserted</p> <p>24 that. He is not going to reveal information or</p> <p>25 communications between state agencies and him.</p>
<p style="text-align: center;">202</p> <p>1 committee -- committee amendments. It was the committee</p> <p>2 substitute as it went through.</p> <p>3 Q. During the first few months of 2011, did you</p> <p>4 gather any information to assist Representative Harless</p> <p>5 in her work on SB 14?</p> <p>6 MR. SWEETEN: To the extent that this</p> <p>7 question is asking you to reveal communications that you</p> <p>8 had with Representative Harless, or any other staff</p> <p>9 members, I don't want you to provide that information.</p> <p>10 That's legislatively-privileged. If you can provide</p> <p>11 that answer without revealing those communications that</p> <p>12 we've outlined previously, I'm going to let you do so.</p> <p>13 Q. (By MS. WESTFALL) Did you contact the</p> <p>14 Department of Public Safety during the first few months</p> <p>15 of 2011?</p> <p>16 MR. SWEETEN: You're just asking the</p> <p>17 contact?</p> <p>18 MS. WESTFALL: Yeah.</p> <p>19 MR. SWEETEN: Okay. I'm going to let you</p> <p>20 answer whether or not you had contact, including,</p> <p>21 as this is along the lines of a privilege log</p> <p>22 questions. You can talk about the contact and the date</p> <p>23 of. Do not reveal the substance of any sort.</p> <p>24 A. Yes.</p> <p>25 Q. (By MS. WESTFALL) What prompted you to contact</p>	<p style="text-align: center;">204</p> <p>1 MS. WESTFALL: Is that the sole privilege</p> <p>2 you're asserting over those conversations?</p> <p>3 MR. SWEETEN: I believe we've also</p> <p>4 asserted the deliberative process privilege over the</p> <p>5 state agency considerations.</p> <p>6 Q. (By MS. WESTFALL) What steps did you take, if</p> <p>7 any, upon receiving information from the Department of</p> <p>8 Public Safety.</p> <p>9 A. I'm sorry. Could you repeat the question?</p> <p>10 Q. Certainly. What steps did you take, if any,</p> <p>11 upon receipt of information from the Department of</p> <p>12 Public Safety?</p> <p>13 MR. SWEETEN: Don't reveal communications</p> <p>14 that relate -- don't reveal it if revealing so reveals</p> <p>15 communications you've had with any state agents.</p> <p>16 A. What actions were taken upon any conversations</p> <p>17 with DPS?</p> <p>18 Q. (By MS. WESTFALL) Correct.</p> <p>19 A. Okay. None that I can recall.</p> <p>20 Q. Is this based on recollection or based on</p> <p>21 privilege and the instructions of counsel or both?</p> <p>22 A. On my recollection.</p> <p>23 Q. Of after the committee voted -- actually, the</p> <p>24 committee voted SB 14 out of committee; is that correct?</p> <p>25 A. Correct.</p>

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1 Q. And was it placed on the House's emergency  
2 calendar?  
3 A. Yes.  
4 Q. Do you know why that happened?  
5 MR. SWEETEN: Don't reveal any  
6 communications related to that, that would be  
7 legislatively privileged. To the extent it's a matter  
8 of public record, you can freely answer that.  
9 A. I believe the emergency calendar, there are  
10 certain items that are eligible for it. I don't know  
11 beyond why that decision was made, but if...  
12 Q. (By MS. WESTFALL) Who was responsible for  
13 making the decisions about what gets on the emergency  
14 calendar in the House?  
15 A. The chair of the Calendars Committee typically  
16 has jurisdiction over the House Floor calendar.  
17 Q. And who is that person?  
18 A. That would be Representative Hunter.  
19 Q. Was he the person who decided to put SB 14 on  
20 the emergency calendar in the House?  
21 MR. SWEETEN: Objection to the extent it  
22 calls for speculation. Go ahead.  
23 A. I can't speculate, but he is the Chair, and  
24 typically Calendars Committee does have jurisdiction  
25 over the House Floor calendars. I can't speculate if he

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1 was the person who made the final decision or not.  
2 Q. (By MS. WESTFALL) And going back to the Select  
3 Committee's consideration of SB 14, did a representative  
4 from DPS testify at that hearing?  
5 A. Yes.  
6 Q. Who was the person that testified?  
7 A. I believe her name was Rebecca. Rebecca Davio.  
8 Q. And what was the testimony concerning?  
9 A. The DPS's involvement as it -- as it --  
10 identification -- their involvement in the  
11 identification parts of the legislation.  
12 Q. Are you referring to the election  
13 identification certificate, or are you referring to  
14 drivers' licenses?  
15 A. I believe at that time, it was not the election  
16 identification certificate. I think it was just the  
17 personal identification used for voting purposes and the  
18 free ID. That's the part of her testimony that I  
19 remember. There might have been other parts of the  
20 testimony, but that's the specific part I remember.  
21 Q. Turning to Floor consideration, House Floor  
22 consideration of SB 14, did Representative Harless have  
23 a strategy to ensure that SB 14 was passed on the House  
24 Floor?  
25 MR. SWEETEN: Don't reveal any

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1 communications you've had with Representative Harless or  
2 any other communications that we've discussed and  
3 enumerated today multiple times. To the extent that you  
4 can answer that question without revealing those  
5 communications, you can do so.  
6 THE WITNESS: Okay.  
7 Q. (By MS. WESTFALL) Can you answer the question  
8 based on advice of counsel?  
9 A. Correct.  
10 Q. What was your role during the House  
11 consideration, the Floor consideration of SB 14?  
12 A. I was monitoring the debate. It was a full --  
13 full day's debate, and I was monitoring it.  
14 Q. Did you prepare talking points for her?  
15 MR. SWEETEN: Objection. I think you're  
16 asking for communications that he's had with  
17 Representative Harless. I don't believe that those are  
18 -- I think those are subject to legislative privileged.  
19 I'm going to instruct him not to answer that question.  
20 MS. WESTFALL: I'm asking about the  
21 existence of documents, not the substance of the  
22 documents, Mr. Sweeten.  
23 MR. SWEETEN: What you asked was: Did you  
24 prepare talking points for Representative Harless?  
25 MS. WESTFALL: Right.

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1 MR. SWEETEN: And if you're asking if  
2 there is an existing document, that is a very different  
3 question.  
4 MS. WESTFALL: It's a privilege log  
5 question.  
6 MR. SWEETEN: Okay.  
7 MS. WESTFALL: But you can stick with your  
8 objection if that's the story you're sticking to.  
9 MR. SWEETEN: I'm sticking with the facts,  
10 which are, you asked two separate questions there now.  
11 So if you're asking if there's an existing document with  
12 talking points? Is that your question?  
13 MS. WESTFALL: It is.  
14 MR. SWEETEN: Okay.  
15 MS. WESTFALL: Think about a privilege  
16 log, Mr. Sweeten.  
17 MR. SWEETEN: Well, and I have let you,  
18 during today's questioning, establish facts that you  
19 would establish in a privilege log. So if you're  
20 asking: Is there a document in existence that is  
21 talking points, then I think we can let him answer that.  
22 A. Is there a document that exists that contains  
23 talking points?  
24 Q. (By MS. WESTFALL) That you prepared or someone  
25 in your office prepared for Representative Harless for

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1 Floor consideration.  
 2 MR. SWEETEN: The problem is that you're  
 3 asking him now what he prepared, and that would  
 4 implicate communications between he and Representative  
 5 Harless.  
 6 MS. WESTFALL: The fact of the  
 7 communication is not privileged, correct? You have a  
 8 privilege log that indicates he authored communications  
 9 to DPS. They were received by DPS. You have a subject  
 10 matter line. You have a date line. That's called the  
 11 privilege log. I'm asking him similar questions with  
 12 regard to communications during this deposition.  
 13 MR. FREDERICK: If I may, this is Matt  
 14 Frederick for the record. Let me just point out that  
 15 counsel for the United States representation of the  
 16 privilege log is not totally consistent with the  
 17 privilege log that the United States has produced, as  
 18 far as the level of detail. I believe that the  
 19 questions go for more detail than has been provided on  
 20 any party's privilege log in this litigation.  
 21 MS. WESTFALL: Well, I think that's a non  
 22 sequitur, to the point at hand, Mr. Frederick.  
 23 Mr. Sweeten, are you going to let him  
 24 answer the question about the existence of the document,  
 25 or no?

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1 MR. SWEETEN: I'm going to let him answer  
 2 whether or not there is a document in existence. We  
 3 won't describe it. I'm not going to let him provide any  
 4 detail, but if -- does -- do you want to ask your  
 5 question again with that?  
 6 Q. (By MS. WESTFALL) My stands to the extent you  
 7 remember what I asked. Could you please answer the  
 8 question so I don't have to repeat it, please,  
 9 Mr. Beuck?  
 10 A. There is a document in existence.  
 11 Q. Are you the author of such document?  
 12 A. I am the author.  
 13 MS. WESTFALL: And for the record,  
 14 Mr. Sweeten, what did the talking points say?  
 15 MR. SWEETEN: No. We're not going to  
 16 answer that question. That would reveal communications  
 17 between Mr. Beuck and Representative Harless.  
 18 Q. (By MS. WESTFALL) Did you prepare  
 19 Representative Harless for questions she might receive  
 20 on the Floor during consideration of SB 14?  
 21 MR. SWEETEN: Objection. You're asking  
 22 him for communications he had with Representative  
 23 Harless. Do not provide an answer to that.  
 24 Q. (By MS. WESTFALL) Getting back to the talking  
 25 points, did you have anyone else review the talking

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1 points, outside of your office, in advance of providing  
 2 them to Representative Harless?  
 3 MR. SWEETEN: Objection. It assumes facts  
 4 not in evidence, and I'm going to object to the extent  
 5 that it would implicate any sort of communications  
 6 you've had with any legislative staff or any other  
 7 enumerated areas.  
 8 Q. (By MS. WESTFALL) So can you not testify --  
 9 A. No.  
 10 Q. -- in response to my question based on advice  
 11 of counsel?  
 12 A. I cannot testify based on advice from counsel.  
 13 Q. Besides the talking points we've discussed, did  
 14 you have meetings with Representative Harless to prepare  
 15 her for Floor consideration of SB 14?  
 16 MR. SWEETEN: Don't reveal -- in answering  
 17 that question, you would be revealing the substance of  
 18 communications; therefore, I don't want you to do that.  
 19 If she wants to ask whether you've had meetings with  
 20 Representative Harless prior to a Floor appearance,  
 21 that's a different question. But don't reveal the  
 22 substance of the communication. It is legislatively  
 23 privileged.  
 24 Q. (By MS. WESTFALL) Did you have any meetings  
 25 with Representative Harless before the Floor

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1 consideration of SB 14?  
 2 A. Yes.  
 3 Q. How long were those meetings?  
 4 A. 30 minutes to an hour.  
 5 Q. Was anyone else at that meeting besides the two  
 6 of you?  
 7 A. No.  
 8 Q. Did you have this meeting in person?  
 9 A. Yes.  
 10 Q. Did you have this meeting in her office?  
 11 A. Yes.  
 12 Q. Did Representative Harless review any  
 13 documents, besides the talking points we talked about,  
 14 before she engaged in the Floor consideration of SB 14?  
 15 MR. SWEETEN: Yeah. The question is a  
 16 yes-or-no question. I'm going to let you answer that,  
 17 but as to what those documents are, if that's the next  
 18 question, we're not going to -- I'm going to assert the  
 19 legislative privilege as to that. You can yes or no to  
 20 her question.  
 21 A. I believe she did review other documents.  
 22 Q. (By MS. WESTFALL) How many?  
 23 A. I don't know.  
 24 Q. Who were the documents authored by?  
 25 MR. SWEETEN: Don't -- you don't have to

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1 answer that question. That's legislatively privileged.  
 2 Q. (By MS. WESTFALL) Did they come from a  
 3 lobbyist?  
 4 MR. SWEETEN: The same objection and the  
 5 same instruction. Don't answer the question. It's  
 6 legislatively privileged.  
 7 Q. (By MS. WESTFALL) Did they come from the  
 8 Lieutenant Governor's Office?  
 9 MR. SWEETEN: Same objection.  
 10 Q. (By MS. WESTFALL) Did they come from the  
 11 Governor's office, interest groups, or constituents?  
 12 MR. SWEETEN: Same objection.  
 13 Q. (By MS. WESTFALL) Are you not answering based  
 14 on advice of counsel?  
 15 A. Yes.  
 16 Q. What did the documents say?  
 17 MR. SWEETEN: Same objection.  
 18 Q. (By MS. WESTFALL) Do you recall that during the  
 19 Floor debate, Representative Harless stated she was not  
 20 advised concerning the number of voters that lacked the  
 21 required identification and what percentage of these  
 22 voters are African American or Hispanic?  
 23 A. It was a fairly lengthy debate. I don't recall  
 24 that specific statement by her.  
 25 Q. We'll get an exhibit on that in a minute.

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1 Are you familiar with the amendments  
 2 offered to SB 14 on the House Floor?  
 3 A. Some of them, yes. There were several. There  
 4 were many amendments offered.  
 5 MS. WESTFALL: Would you mark this as  
 6 Exhibit U.S. 9.  
 7 (Exhibit 9 marked for identification.)  
 8 Q. (By MS. WESTFALL) You have been handed U.S.  
 9 Exhibit 9. Do you recognize this exhibit?  
 10 MR. SWEETEN: Do we get one of those?  
 11 MS. WESTFALL: Certainly. I'm eager not  
 12 to carry this home.  
 13 Q. (By MS. WESTFALL) Do you recognize this  
 14 document?  
 15 A. This appears to be a copy the House Journal  
 16 from March 23rd.  
 17 Q. By the way, were you on the Floor with  
 18 Representative Harless during the Floor consideration,  
 19 or were you elsewhere?  
 20 A. I was not on the Floor.  
 21 Q. Where were you?  
 22 A. I was in an office.  
 23 Q. What office?  
 24 A. It would be considered the -- it's a conference  
 25 room within the Speaker's Office.

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1 Q. Who were you with?  
 2 A. Myself.  
 3 Q. Turning your attention to Amendment 15, which  
 4 is on Page 969 of Exhibit 8.  
 5 MR. ROSENBERG: What page was that,  
 6 Ms. Westfall?  
 7 MS. WESTFALL: 969.  
 8 Q. (By MS. WESTFALL) Amendment 15, could you take  
 9 a look at that and let me know when you're ready?  
 10 A. (Viewing documents.)  
 11 Q. Have you had a chance the to review that?  
 12 A. Yes.  
 13 Q. What is this amendment designed to accomplish?  
 14 A. The amendment appears to prohibit fees for the  
 15 issuance of any document under Senate Bill 14.  
 16 Q. And how did Representative Harless respond to  
 17 this amendment?  
 18 MR. SWEETEN: Are you asking a matter of  
 19 public record?  
 20 MS. WESTFALL: Yes. I'm asking a matter  
 21 of public record. It's right here, Mr. Sweeten?  
 22 A. Representative Harless moved to table Amendment  
 23 Number 15.  
 24 Q. (By MS. WESTFALL) Why did she do that?  
 25 MR. SWEETEN: Objection, calls for

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1 speculation. Also, don't reveal any communications  
 2 you've had with Representative Harless as to the issue.  
 3 A. I can't speculate to her motives on that  
 4 amendment.  
 5 Q. (By MS. WESTFALL) Did you advise her to table  
 6 that amendment?  
 7 MR. SWEETEN: Objection. It would reveal  
 8 communications between Mr. Beuck and Representative  
 9 Harless, and it would be legislatively-privileged.  
 10 Instruct you not to answer.  
 11 Q. (By MS. WESTFALL) Did you have any  
 12 conversations with Representative Harless about this  
 13 amendment?  
 14 MR. SWEETEN: The subject matter is  
 15 contained within the question; therefore, I'm going to  
 16 instruct not to answer, as it would reveal matters of  
 17 the legislative privilege.  
 18 Q. (By MS. WESTFALL) Was Representative Harless  
 19 holding a cell phone during the House Floor  
 20 consideration of Senate Bill 14?  
 21 A. I don't recall.  
 22 Q. Did you receive any texts from her during House  
 23 Floor consideration of SB 14?  
 24 MR. SWEETEN: You can testify as to  
 25 whether or not you received a text. Don't testify as to

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1 what those communications were or the substance of  
2 those.

3 A. I believe I did.

4 Q. (By MS. WESTFALL) More than one?

5 A. More than one. Probably less than five.

6 Q. Do you know whether she was texting persons  
7 other than you during House Floor consideration of  
8 SB 14?

9 MR. SWEETEN: Objection, calls for  
10 speculation.

11 A. I don't know.

12 Q. (By MS. WESTFALL) Turning your attention to  
13 Amendment 23 at House Journal 979. Could you describe  
14 this amendment?

15 A. This is an amendment from Representative Dutton  
16 adding a student identification card to the list of  
17 acceptable forms of photo identification.

18 Q. How did Representative Harless vote on this  
19 amendment?

20 A. She voted for the motion to table.

21 Q. Did you advise her to do that?

22 MR. SWEETEN: Objection. Don't reveal any  
23 conversation you had with Representative Harless. I  
24 instruct you not to answer that.

25 Q. (By MS. WESTFALL) So the answer is no, you're

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1 not going to respond based on privilege?

2 MR. SWEETEN: You've asked him to reveal  
3 the substance of communication between he and  
4 Representative Harless. That is clearly within the  
5 lines of legislatively privilege that I'm very  
6 consistently drawing today.

7 MS. WESTFALL: I just want to make sure  
8 the witness is indicating on the basis of privilege for  
9 the record. Okay?

10 MR. SWEETEN: Fair enough. I am  
11 instructing you not to answer that question. It would  
12 reveal legislatively-privileged information.

13 Q. (By MS. WESTFALL) Why do you think she voted  
14 against this amendment?

15 A. I can't speculate.

16 Q. Weren't student IDs included in previous  
17 iterations of the bills?

18 MR. SWEETEN: Objection, vague.

19 Q. (By MS. WESTFALL) You can answer.

20 A. I'd have to go back and look at the previous  
21 versions of voter ID through the last sessions.

22 Q. Did you do any analysis, or did Representative  
23 Harless do any analysis, as to whether student IDs would  
24 be more frequently possessed by minorities than the  
25 general population?

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1 MR. SWEETEN: I'm going to object to the  
2 question. It think it calls for matters that are  
3 legislatively privileged. Don't reveal any  
4 communications you've had with Representative Harless.  
5 And legislative fact-gathering is well contained within  
6 the privilege, so I'm going to instruct you  
7 accordingly. To the extent you can provide information,  
8 matters of public record or that are not part of the  
9 legislative privilege, you can provide an answer to that  
10 question.

11 A. No, based upon the advice from my counsel.

12 Q. (By MS. WESTFALL) I believe you testified  
13 earlier that there are lots of different forms of ID  
14 that would be considered allowable; U.S. Military IDs;  
15 is that correct?

16 A. I don't remember phrasing my answer that way.

17 Q. There's more than a handful of military IDs, is  
18 there not?

19 A. Not to my knowledge. I don't know.

20 Q. Or do you not know the number of U.S. military  
21 IDs?

22 A. I don't know.

23 Q. Okay. And turning back to House Bill 112,  
24 Representative Harless had filed a bill, in November  
25 2010, that provided for the use of photo IDs issued by

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1 the state, its agencies, and subdivisions; isn't that  
2 right?

3 A. I'm looking at House Bill 112, identification  
4 card issued to person by government entity, correct.

5 Q. And that would be quite a few IDs, would it  
6 not?

7 A. Correct.

8 Q. Representative Harless indicated publicly that  
9 her concern with student IDs was the number of student  
10 IDs; isn't that right?

11 MR. SWEETEN: You can answer to the extent  
12 she's asking about matters of public record.

13 A. I remember the student ID issue coming up  
14 during the debate. I don't remember her specific  
15 testimony on...

16 MR. SWEETEN: Hold one second.

17 MS. WESTFALL: Would you mark this as  
18 Exhibit 10, please.

19 (Exhibit 10 marked for identification).

20 Q. (By MS. WESTFALL) You've been handed U.S.  
21 Exhibit Number 10. Have you seen this document before?

22 A. (Viewing documents.)

23 Q. If I could turn your attention to the top of  
24 the third page. I'm sorry, the third page, double  
25 sided. There is some quotations from Representative

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1 Harless. If you could just take a look at those and let  
 2 me know when you've had a chance review it.  
 3 A. Okay.  
 4 Q. By the way, have you seen this article before?  
 5 A. I do remember this. I remember when it was --  
 6 Q. Okay.  
 7 A. I do remember the article. I don't remember  
 8 the specifics of it. (Viewing documents.) Just this top  
 9 portion. Yes. Okay.  
 10 Q. So it indicates, does it not, that  
 11 Representative Harless excludes student IDs because,  
 12 quote, "We wanted a form of identification that was  
 13 easily recognized by the poll workers at the election  
 14 site." Is that correct?  
 15 A. That's what --  
 16 MR. SWEETEN: You're asking him is that  
 17 what -- if that's correct, that's what that says?  
 18 MS. WESTFALL: That's correct. Correct.  
 19 Q. (By MS. WESTFALL) Does Exhibit 10 indicate  
 20 that?  
 21 A. The exhibit does indicate that.  
 22 Q. Did Representative Harless consider whether  
 23 those same concerns would apply to the number of  
 24 military IDs for example, which could be varied?  
 25 MR. SWEETEN: I'm going to object to the

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1 extent that she's asking you to reveal conversations  
 2 that you've had with Representative Harless. And I'm  
 3 going to instruct you not to answer based upon that. If  
 4 you can answer based upon public record or matters that  
 5 don't implicate this communications of legislative  
 6 privilege, but I'm going to instruct you not to answer.  
 7 A. I don't recall in the public record, if that  
 8 was something. I don't recall.  
 9 Q. (By MS. WESTFALL) Did you have any  
 10 conversations with Representative Harless about this  
 11 amendment, Amendment 23?  
 12 A. Regarding student IDs?  
 13 MR. SWEETEN: Don't reveal the substance  
 14 of any conversations.  
 15 Q. (By MS. WESTFALL) Did you have any  
 16 conversations with about her this amendment?  
 17 A. Not that I recall.  
 18 Q. Turning your attention to Amendment 35 at House  
 19 Journal 991, are you familiar with this amendment?  
 20 A. Yes, I remember. I remember this from the  
 21 debate.  
 22 Q. Could you describe the amendment?  
 23 A. It's applying the Voting Rights Act to certain  
 24 sections of Senate Bill 14.  
 25 Q. And how did Representative Harless vote on this

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1 amendment?  
 2 A. She voted for the motion to table.  
 3 Q. Did you advise her to vote that way?  
 4 MR. SWEETEN: Objection. Don't reveal  
 5 communications you had with Representative Harless.  
 6 Those are legislatively privileged.  
 7 Q. (By MS. WESTFALL) Did you have any other  
 8 testimony in response to that question, or no?  
 9 MR. SWEETEN: Objection. The question is  
 10 vague.  
 11 A. No.  
 12 Q. (By MS. WESTFALL) Does Representative Harless  
 13 believe that materials printed under SB 14 should only  
 14 be in English?  
 15 MR. SWEETEN: I'm going to object. Do not  
 16 reveal any communications that you've had with  
 17 Representative Harless. To the extent that the public  
 18 record reveals answers to this question, you can refer  
 19 counsel to that.  
 20 A. Not that -- not that I know of.  
 21 Q. (By MS. WESTFALL) Do you know what Section 203  
 22 does of the Voting Rights Act? Sorry.  
 23 A. I know I have expert here to answer that in  
 24 case I don't. I'm not going to assume to know. I  
 25 remember the debate. I remember it had to do with

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1 Section -- I can't remember if that's Section 2 or  
 2 Section 5.  
 3 Q. Turning to your attention now to Amendment  
 4 Number 50 at House Journal 1009 and 1010.  
 5 A. Okay.  
 6 Q. Are you familiar with this amendment?  
 7 A. Okay.  
 8 Q. What would this amendment have done?  
 9 A. This provides a travel reimbursement, provides  
 10 travel reimbursement for individuals under a certain --  
 11 under certain -- certain poverty guidelines. They may  
 12 recover expenses for traveling to a DPS office for  
 13 obtaining photo identification.  
 14 Q. How did Representative Harless vote on this  
 15 amendment?  
 16 A. She voted for the motion to table.  
 17 Q. Why did she vote that way?  
 18 MR. SWEETEN: Objection to the extent that  
 19 that would reveal communications you had with  
 20 Representative Harless.  
 21 Don't provide an answer to that question.  
 22 If there are matters on the public record that you can  
 23 refer counsel to, you can answer that question.  
 24 Q. (By MS. WESTFALL) Do you have an answer?  
 25 A. No, I do not.

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1 Q. Isn't it the case that the majority of  
2 individuals who live below the federal poverty line in  
3 Texas are members of racial minorities?

4 MR. SWEETEN: Objection, assumes facts not  
5 in evidence. Objection, argumentative. If you have  
6 personal knowledge of what she's asking you, I'll let  
7 you answer.

8 A. No, I don't have any personal knowledge on  
9 that.

10 Q. (By MS. WESTFALL) Did you have any  
11 conversations with Representative Harless about  
12 Amendment 50?

13 MR. SWEETEN: Objection. The question  
14 asks about the subject matter. Therefore, I'm going to  
15 instruct you not to reveal communications you had with  
16 Representative Harless and the other communications that  
17 I've outlined previously.

18 Q. (By MS. WESTFALL) Turning your attention to  
19 Amendment 54 at Page 1015 of the House Journal, are you  
20 familiar with this amendment?

21 A. This is an amendment directed to the Secretary  
22 of State to require certain records be kept regarding  
23 Senate Bill 14.

24 Q. How did Representative Harless vote on this  
25 amendment?

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1 A. She voted for the motion to table.

2 Q. Why did she vote that way?

3 MR. SWEETEN: Objection. Don't reveal  
4 communications between you and Representative Harless.  
5 To the extent there's public information about that  
6 issue, you can answer based upon the public record.

7 Q. (By MS. WESTFALL) Why did Representative  
8 Harless not want this information to be gathered?

9 MR. SWEETEN: Same objection. Your  
10 question asks for matters that are privileged by the  
11 legislative privilege, that are covered under that. It  
12 also asks for communications between Mr. Beuck and  
13 Representative Harless, and I'm going to instruct him  
14 not to answer that question. It also calls for  
15 speculation.

16 Q. (By MS. WESTFALL) Did Representative Harless or  
17 you have any concerns that this information would be  
18 harmful because it would show a disparate effect on  
19 SB 14 on minority voters?

20 MR. SWEETEN: I'm going to instruct you  
21 not to answer that question in that question asks for  
22 you to reveal matters that are subject to the  
23 legislative privilege and impact communications you may  
24 have had with Representative Harless.

25 Q. (By MS. WESTFALL) How far in advance were --

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1 was there a requirement that these amendments be filed  
2 within a certain time period before Floor consideration  
3 of SB 14?

4 A. No, there was not a -- I think what's referred  
5 to as a prefilng rule. These amendments, many of them,  
6 from my observation, were being drafted, and a good  
7 number of them were being drafted and submitted during  
8 the debate. And I understand a lot of them were  
9 prepared beforehand. But, no, there was no prefilng.

10 Q. Did you have any awareness or knowledge of  
11 Amendment Number 54 in advance of the Floor debate?

12 A. Not that I recall.

13 Q. Did you consult with the Secretary of State's  
14 Office about her position on this amendment before it  
15 was considered?

16 MR. SWEETEN: I'm going to instruct you  
17 not to answer. That is a matter subject to the  
18 legislative privilege. It's communication between your  
19 -- potentially, communication between your office, you,  
20 or Representative Harless with a state agency, which is  
21 covered by the legislative privilege.

22 Q. (By MS. WESTFALL) Turning to your attention to  
23 Amendment Number 55 on the following page, Page 1016,  
24 are you familiar with this amendment?

25 A. This is an amendment which is requesting the

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1 Secretary of State -- or it's requiring the Secretary of  
2 State to make a determination on the racial or ethnic  
3 identity of -- of those that are required to cast a  
4 provisional ballot under Senate Bill 14.

5 Q. How did Representative Harless vote on this  
6 amendment?

7 A. She voted for the motion to table.

8 Q. Why did she vote that way?

9 MR. SWEETEN: Objection. It calls for  
10 matters in communications between Mr. Beuck and  
11 Representative Harless. It implicates those  
12 communications, and therefore, it's legislatively  
13 privileged. I instruct you not to answer that question.

14 Q. (By MS. WESTFALL) Did Representative Harless  
15 have any concern that the burden of SB 14 might be felt  
16 disproportionately by minority voters?

17 MR. SWEETEN: Objection, calls for  
18 speculation. Objection, also to the extent that it  
19 implicates legislative privilege and communications that  
20 Mr. Beuck had with Representative Harless, I instruct  
21 you not to answer on that basis.

22 Q. (By MS. WESTFALL) Did you have any  
23 communications with Representative Harless about this  
24 amendment?

25 MR. SWEETEN: I'm going to let you answer

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1 as to the fact of a communication. Otherwise, I will  
 2 not -- I'm not going to let you discuss the specific  
 3 communications involved.  
 4 A. Not that I recall.  
 5 Q. (By MS. WESTFALL) Turning your attention to  
 6 Amendment 58 on Page 1021.  
 7 A. Yes.  
 8 Q. Can you describe this amendment?  
 9 A. This is an amendment which requires the  
 10 Secretary of State to conduct a study on the ethnicity,  
 11 the potential impact on voter turnout, turn-out data.  
 12 It's requiring the Secretary of State to conduct a  
 13 study, and it makes that study conditional on the  
 14 implementation of Senate Bill 14.  
 15 Q. How did Representative Harless vote on this  
 16 amendment?  
 17 A. She voted for the motion to table.  
 18 Q. Why did she vote that way?  
 19 MR. SWEETEN: Objection, it calls for  
 20 matters that are covered under the legislative privilege  
 21 and communications between Mr. Beuck and Representative  
 22 Harless. I'm going to instruct you not to answer on  
 23 that basis. To the extent that there are matters of  
 24 public record that you can testify that provide you the  
 25 ability to answer that question, you can do so.

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1 Q. (By MS. WESTFALL) Is there anything in the  
 2 public record that would enable you to answer that  
 3 question?  
 4 A. No.  
 5 Q. Why did Representative Harless not want this  
 6 information gathered?  
 7 MR. SWEETEN: I'm going to make the same  
 8 objection. You're asking for matters that are contained  
 9 within the legislative privilege. You're asking to  
 10 reveal communications between Mr. Beuck and  
 11 Representative Harless. Also, communications with  
 12 others, potentially. I'm going to instruct you not to  
 13 answer on that basis.  
 14 THE WITNESS: Okay.  
 15 Q. (By MS. WESTFALL) Isn't it true that  
 16 Representative Anchia raised the issue with  
 17 Representative Harless as to why this information wasn't  
 18 gathered prior to the bill being drafted?  
 19 MR. SWEETEN: Don't reveal communications  
 20 between Representative Harless and Representative Anchia  
 21 unless those are matters of public record. These are  
 22 covered by the legislative privilege.  
 23 Q. (By MS. WESTFALL) Do you have an answer to my  
 24 question, based on the public record?  
 25 A. I believe that was a conversation they had in

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1 committee.  
 2 Q. What was Representative Harless's reaction to  
 3 Representative Anchia's statement in that regard?  
 4 MR. SWEETEN: You can testify as to the  
 5 public record, if that's what this is, and if you  
 6 recall.  
 7 A. I don't recall.  
 8 Q. (By MS. WESTFALL) How would you respond to  
 9 someone who would say that not studying the impact of  
 10 allowable forms of ID on minority voters shows a callous  
 11 disregard for their voting rights?  
 12 MR. SWEETEN: I'm going to object to the  
 13 question as argumentative. I don't know if you're  
 14 attempting to find out Representative Harless's  
 15 position. If so, it reveals those communications. If  
 16 you're asking him his personal opinion, then I will let  
 17 him answer with respect to his personal opinion on that  
 18 issue.  
 19 Q. (By MS. WESTFALL) What is your opinion as a  
 20 legislative staffer on that issue, Mr. Beuck?  
 21 A. The disregard for the impact?  
 22 Q. By not investigating, that it would appear to  
 23 show disregard for the interests of minority voters?  
 24 MR. SWEETEN: Same instruction.  
 25 A. I think that statement assumes there was not an

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1 investigation into the impact.  
 2 Q. (By MS. WESTFALL) Was there an investigation  
 3 into the impact?  
 4 MR. SWEETEN: Don't reveal information  
 5 that is subject to the legislative privilege, including  
 6 communications with any state agencies, with  
 7 constituents, or the Legislative Council, with  
 8 Representative Harless, other legislators or staffers.  
 9 A. Well, with the testimony and the committee, the  
 10 turnout shows that voter participation increased in the  
 11 states that have implemented voter identification.  
 12 Q. (By MS. WESTFALL) How is that responsive to the  
 13 concern that there was no investigation as to the impact  
 14 of the allowable forms of ID in Senate Bill 14 on  
 15 minority voters?  
 16 MR. SWEETEN: Objection, argumentative.  
 17 Q. (By MS. WESTFALL) You may answer.  
 18 A. I think that illustrates the impact in the  
 19 other states, and it would carry over to Texas.  
 20 Q. Was there any study conducted or investigation  
 21 of the impact of the allowable forms of ID under Senate  
 22 Bill 14 on minority voters that was not disclosed to the  
 23 public?  
 24 MR. SWEETEN: I'm going to object to the  
 25 extent that your question asks for research conducted

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1 prior to the bill that is potentially impacted by the  
2 legislative privilege, including communications with all  
3 of the various state agencies, the representatives,  
4 representatives' staffs, the Texas Legislative  
5 Council. And I'm going to instruct him not to answer on  
6 that basis, except to the extent that you can do so  
7 based upon the matters of public record.

8 Q. (By MS. WESTFALL) Is there any publicly-  
9 available information on that topic?

10 A. On the -- specific to Senate Bill 14?

11 Q. Yes.

12 A. Not to my knowledge.

13 Q. Is there any publicly-available information of  
14 any research or studies conducted as to impact of  
15 allowable forms of ID under prior photo ID bills  
16 introduced in the Texas House or Senate that you're  
17 aware of?

18 A. Not that I'm aware of.

19 Q. Did Representative Harless serve on the  
20 Conference Committee of the bill?

21 A. Yes.

22 Q. Did she chair it?

23 A. As the House sponsor of the legislation, I  
24 think it's -- yes, she did chair it. She was the chair  
25 of the House conferees.

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1 Q. Were there any changes that were put in during  
2 the conference consideration of the bill that had not  
3 been in either version passed in the House or Senate?

4 MR. SWEETEN: I assume those are matters  
5 of public record, if so, you can go ahead and answer.

6 A. Yes. There was the -- election identification  
7 certificate that was not contained in either the Senate  
8 version or the House version.

9 Q. (By MS. WESTFALL) Could you describe the  
10 circumstances of the insertion of that provision into  
11 the conference bill?

12 MR. SWEETEN: You can discuss matters of  
13 public record. Don't discuss conversations that you had  
14 with any of the areas with we've been discussing.

15 A. I know it was a concern brought up by  
16 Representative Anchia during the House Floor debate.

17 Q. (By MS. WESTFALL) What did he ask for?

18 A. His concerns were that -- having to do with the  
19 personal identification and DPS, DPS revenues.

20 Q. I'm not sure I understand. Can you clarify?

21 A. He had -- I remember him discussing the issue,  
22 the details of which I don't know. It had to do with  
23 receipt -- the revenue received by DPS and their  
24 identification. The revenue received from DPS from  
25 identifications.

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1 Q. Could you describe the election identification  
2 certificate provision in SB 14?

3 A. The election identification certificate, I  
4 remember during the debate that it was modeled after the  
5 provisions in current law for a personal identification,  
6 for a DPS personal identification. It's modeled after  
7 that language.

8 Q. Were you involved in the drafting of that  
9 particular provision that went in, in the conference  
10 committee?

11 A. No.

12 Q. Who drafted it?

13 MR. SWEETEN: I caution the witness not to  
14 reveal any communications between other legislative  
15 staffers, Representative Harless, or any of the other  
16 enumerated areas.

17 Q. (By MS. WESTFALL) On the basis of that  
18 instruction, are you not answering the question?

19 A. Correct. I'm sorry.

20 Q. But it wasn't -- it wasn't you?

21 A. That's correct.

22 Q. During the drafting or the legislators'  
23 consideration of SB 14, was there any analysis of cost  
24 or steps that a voter would need to take to obtain an  
25 election identification certificate?

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1 MR. SWEETEN: Again, as to matters and  
2 communications that relate that are covered by the  
3 legislative privilege with the enumerated groups that  
4 I've provided today, don't reveal those communications  
5 If you can answer based upon the public record or with  
6 information that does not implicate those  
7 communications, you can go ahead and try to do so.

8 A. The cost associated with obtaining a -- the  
9 personal identification, election identification  
10 certificate. Are you referring to the documents  
11 necessary for an identification? The election  
12 identification certificate is a free ID.

13 Q. (By MS. WESTFALL) DPS is prohibited from  
14 charging --

15 A. Correct.

16 Q. -- for an election identification certificate;  
17 is that correct?

18 A. That's my understanding.

19 Q. What documents are necessary to obtain an  
20 election identification certificate under SB 14?

21 A. They have to be a registered voter. It  
22 references a Section 52. -- 521.142, that DPS may  
23 require from the applicant identification. It doesn't  
24 list out the necessary identification.

25 Q. Are you familiar with any regulations or

<p style="text-align: center;">237</p> <p>1 proposals for implementing the election identification</p> <p>2 certificate that have been developed by either DPS or</p> <p>3 the Secretary of State?</p> <p>4 A. It's my understanding that it is to be</p> <p>5 implemented in a manner similar -- as the bill says, in</p> <p>6 a manner similar to the driver's license and personal</p> <p>7 identification certificate.</p> <p>8 Q. Do you have any knowledge or information about</p> <p>9 the plans to implement the election identification</p> <p>10 certificate?</p> <p>11 MR. SWEETEN: Don't reveal any</p> <p>12 communications that you've had or Representative Harless</p> <p>13 has had with state agencies with respect to this matter</p> <p>14 and in addition to the other enumerated areas, but to</p> <p>15 the extent that you can answer based upon public</p> <p>16 information, you can feel free to do so.</p> <p>17 THE WITNESS: Okay.</p> <p>18 Q. (By MS. WESTFALL) Do you have any knowledge --</p> <p>19 A. No.</p> <p>20 Q. -- based on public information? Did you have</p> <p>21 any conversations with Representative Harless about how</p> <p>22 this certificate would be implemented?</p> <p>23 MR. SWEETEN: Don't answer that, because</p> <p>24 it would reveal communications that you've had with</p> <p>25 Representative Harless which are covered by the</p>	<p style="text-align: center;">239</p> <p>1 have information from the public record, from those</p> <p>2 sources, if you can answer the question, go ahead and do</p> <p>3 so.</p> <p>4 A. Senate -- my understanding is and I've said it</p> <p>5 earlier is that Senate Bill 14 was about the elections</p> <p>6 process and improving that. How other people feel about</p> <p>7 it, I can't speculate.</p> <p>8 Q. I know it's the end of the day, but you need to</p> <p>9 listen carefully to the question and answer the question</p> <p>10 so we can move on to the next question.</p> <p>11 So I'm going to ask the question again:</p> <p>12 Are you aware of claims that Senate Bill 14 attempted to</p> <p>13 exploit fears of illegal immigrants voting?</p> <p>14 MR. SWEETEN: The same instruction. You</p> <p>15 can testify as to matters of the public record.</p> <p>16 Q. (By Ms. Westfall) Are you aware of that claim</p> <p>17 in your own head sitting here today?</p> <p>18 A. Okay. Okay. I remember the issue coming up</p> <p>19 during the committee hearing, public testimony. There</p> <p>20 were some individuals. I remember that being discussed,</p> <p>21 so yes.</p> <p>22 Q. And who testified about those concerns?</p> <p>23 A. I don't recall.</p> <p>24 Q. Outside of the hearings at which concerns about</p> <p>25 illegal aliens voting was raised, did Representative</p>
<p style="text-align: center;">238</p> <p>1 legislative privilege.</p> <p>2 Q. (By MS. WESTFALL) Are you aware at any time</p> <p>3 during consideration of SB 46 of any legislators or</p> <p>4 their staff making any statements about illegal aliens</p> <p>5 voting?</p> <p>6 MR. SWEETEN: I'm going to object to the</p> <p>7 extent that the question calls for you to reveal</p> <p>8 communications between legislators, legislative staff,</p> <p>9 state agencies, the TLC or constituents. Don't reveal</p> <p>10 any of those communications. To the extent that you can</p> <p>11 do so based upon the public record, on matters not</p> <p>12 implicated by that, then you can go ahead and try to</p> <p>13 answer that.</p> <p>14 A. Any statements, public statements of staff or</p> <p>15 members regarding the illegal immigration, not that I</p> <p>16 recall.</p> <p>17 Q. (By Ms. Westfall) Not based on the public</p> <p>18 record because your counsel has instructed you not to</p> <p>19 talk about the private record; is that correct?</p> <p>20 A. That's correct.</p> <p>21 Q. Are you aware of the claims that SB 14</p> <p>22 attempted to exploit fears of illegal immigrants voting?</p> <p>23 MR. SWEETEN: Again, don't reveal</p> <p>24 legislatively-privileged information, which are the</p> <p>25 categories that we've discussed. To the extent that you</p>	<p style="text-align: center;">240</p> <p>1 Harless or you become aware of those concerns from any</p> <p>2 other sources communicated to the representative or to</p> <p>3 you?</p> <p>4 MR. SWEETEN: Objection to the question,</p> <p>5 it calls for speculation. In addition, I'm going to</p> <p>6 instruct you as I previously have: Do not reveal</p> <p>7 communications that you have had with Representative</p> <p>8 Harless, staff members, state agencies, constituents or</p> <p>9 TLC. Let me also tell you that if you've got</p> <p>10 information as to that question based upon the public</p> <p>11 record, you can go ahead and try to answer her question.</p> <p>12 THE WITNESS: Okay.</p> <p>13 MS. WESTFALL: And to be clear,</p> <p>14 Mr. Sweeten, I'm asking about communications from</p> <p>15 members of the public, groups, interest groups that were</p> <p>16 communications to Representative Harless or Mr. Beuck.</p> <p>17 MR. SWEETEN: Again, as to constituent</p> <p>18 communications, we've held that there is a privilege as</p> <p>19 to that information, so...</p> <p>20 THE WITNESS: Okay.</p> <p>21 MS. WESTFALL: Therefore, you're</p> <p>22 instructing him not to answer if he received those</p> <p>23 communications; is that correct?</p> <p>24 MR. SWEETEN: I'm instructing him not to</p> <p>25 reveal the substance of the communication that he</p>

<p style="text-align: center;">241</p> <p>1 received from constituents; that's correct.</p> <p>2 Q. Have there been elections held since SB 14 was</p> <p>3 signed into law in July -- I mean, pardon me -- in May</p> <p>4 2011?</p> <p>5 A. There was a -- yes, a constitutional election</p> <p>6 -- a constitutional amendment election in November, and</p> <p>7 we're currently having an election right now.</p> <p>8 Q. To your knowledge, has the Secretary of State</p> <p>9 or any County election officials enforced SB 14?</p> <p>10 A. Not to my knowledge.</p> <p>11 Q. Are you aware of any in-person voter</p> <p>12 impersonation having occurred during these elections?</p> <p>13 A. Not to my personal knowledge, no.</p> <p>14 Could I get a drink of water real fast?</p> <p>15 MS. WESTFALL: Why don't we take a little</p> <p>16 break, because I think we'll be concluding and passing</p> <p>17 the baton.</p> <p>18 (Recess 5:05 p.m. to 5:16 p.m.)</p> <p>19 Q. (By Ms. Westfall) I believe you testified</p> <p>20 earlier about provisional ballots in SB 14?</p> <p>21 A. Yes.</p> <p>22 Q. Could you describe how provisional ballots work</p> <p>23 in the bill?</p> <p>24 A. Okay. There is a provision in the bill that</p> <p>25 allows for a voter to cast a provisional ballot if they</p>	<p style="text-align: center;">243</p> <p>1 question. So I'm going to instruct you not to answer</p> <p>2 the question, unless public information reveals the</p> <p>3 answer, which I think by its own terms, it could not.</p> <p>4 Q. (By Ms. Westfall) I believe you testified</p> <p>5 earlier that you answered phone calls for Representative</p> <p>6 Harless; is that correct?</p> <p>7 A. Correct.</p> <p>8 Q. Did you ever receive any phone calls from</p> <p>9 anyone from the King Street Patriots regarding voter ID?</p> <p>10 MR. SWEETEN: Objection, asked and</p> <p>11 answered. I'm also going to object, because it</p> <p>12 potentially implicates communications from a</p> <p>13 constituent. And so with that, I'm going to go ahead</p> <p>14 and instruct you not to answer that. It's already been</p> <p>15 asked and answered.</p> <p>16 Q. (By Ms. Westfall) Did you already -- did you</p> <p>17 take any phone calls from Paul Bettencourt related to</p> <p>18 photo ID on behalf of Representative Harless?</p> <p>19 MR. SWEETEN: Objection, asked and</p> <p>20 answered.</p> <p>21 MS. WESTFALL: You may answer.</p> <p>22 MR. SWEETEN: Same instruction.</p> <p>23 MS. WESTFALL: Are you instructing him not</p> <p>24 to answer?</p> <p>25 MR. SWEETEN: I am. I think you're asking</p>
<p style="text-align: center;">242</p> <p>1 do not have the required photo identification.</p> <p>2 Q. And could you describe the circumstances under</p> <p>3 which a provisional ballot is counted?</p> <p>4 A. Yes. They must -- they must state that they do</p> <p>5 not have any other form of identification that meets the</p> <p>6 requirements of Senate Bill 14. Wait. No. Excuse</p> <p>7 me. Those are the exceptions.</p> <p>8 Q. Is it true that a person who casts a</p> <p>9 provisional ballot under SB 14 must present one of the</p> <p>10 allowable forms of ID in order for it to be counted</p> <p>11 except narrow circumstances related to religious</p> <p>12 objection or natural disaster?</p> <p>13 A. They have within six days to return and show</p> <p>14 the identification.</p> <p>15 Q. And if they don't show the identification or</p> <p>16 fall into one of these exceptions, the religious</p> <p>17 exception or the natural disaster exception, their</p> <p>18 provisional ballot will not be counted; is that correct?</p> <p>19 A. That is my understanding.</p> <p>20 Q. And I think you testified earlier that there</p> <p>21 may have been nonpublic investigations of the impact of</p> <p>22 Senate Bill 14; is that correct?</p> <p>23 MR. SWEETEN: Objection. You're asking</p> <p>24 him to reveal information that's protected by the</p> <p>25 legislative privilege. He's not going to answer that</p>	<p style="text-align: center;">244</p> <p>1 for constituent communications. I think that's within</p> <p>2 the privilege. It's one of the categories that we've</p> <p>3 been asserting.</p> <p>4 MS. WESTFALL: Are you asserting a</p> <p>5 privilege over the fact that a communication was made?</p> <p>6 MR. SWEETEN: First of all, he's already</p> <p>7 answered this question. So if you're just asking the</p> <p>8 fact, was a communication made, I will let him answer</p> <p>9 whether he received those. I think I know the answer,</p> <p>10 though, but I'm going to let him answer it again.</p> <p>11 So you can go ahead and do it, Colby, if</p> <p>12 you can.</p> <p>13 THE WITNESS: Okay.</p> <p>14 Q. (By Ms. Westfall) Did you receive any phone</p> <p>15 call from anyone with the King Street Patriots related</p> <p>16 to photo ID that were made in to Representative Harless?</p> <p>17 A. Yes.</p> <p>18 MR. SWEETEN: That were made in to?</p> <p>19 MS. WESTFALL: That were called in to</p> <p>20 Representative Harless's office.</p> <p>21 MR. SWEETEN: Okay. All right. He's --</p> <p>22 he can answer as to whether contact was made. He will</p> <p>23 not answer the substance.</p> <p>24 Once again, the prefatory remarks on</p> <p>25 your question, you're asking about substance, and I'm</p>

<p style="text-align: center;">245</p> <p>1 not going to continue to allow you to do that. That is 2 improper. You're asking about substance of 3 conversation. So I'll let him talk about contact. 4 We'll talk about the privilege log like you said, but 5 I'm not going to let him get into the substance of any 6 conversations. 7 MS. WESTFALL: I understand that. The 8 question's not improper. It's relevant. It's within 9 Rule 26. You're asserting a privilege. You can 10 instruct your witness not to answer. That's how we've 11 been operating today. 12 MR. SWEETEN: Okay. He's answered the 13 question I think you asked. I'm not going to let him 14 reveal substance of the communication. I've been very 15 clear about that. 16 MS. WESTFALL: I'm now going to ask my 17 question to make my record. I understand your position 18 on privilege. 19 Q. (By Ms. Westfall) What was the nature and the 20 substance of the communication and phone call from the 21 King Street Patriots regarding photo ID? 22 MR. SWEETEN: Do not answer the question 23 proposed. She's asking about substance of 24 communications. You don't have to do that. 25 Q. (By Ms. Westfall) Did you receive a phone</p>	<p style="text-align: center;">247</p> <p>1 license offices that have closed due to lack of funding 2 to your knowledge? 3 A. Not that I'm aware of. 4 Q. Did you conduct any research or have any 5 knowledge about availability or locations of driver 6 license offices in either the state of Georgia or the 7 state of Indiana? 8 MR. SWEETEN: I'm going to object. I 9 think this falls within legislative fact-gathering, 10 which is within the privilege. He doesn't have to 11 answer what occurred with respect to legislative fact- 12 gathering. 13 Q. (By Ms. Westfall) Are there any answers that 14 you want to change at this point in response to any 15 question that I asked you today? 16 A. Not that I can think offhand. 17 Q. Is there any information that you didn't recall 18 that you now recall now that we're at the end of the day 19 in answer to any of my questions? 20 A. You had mentioned, you had asked a -- if groups 21 contacted me in the preparation of Senate Bill 14. And 22 I -- the groups that had contacted me, and I -- there 23 was a group before while I was drafting it that 24 contacted me, and add -- Advocacy, Inc. 25 Q. I see. And what was the concern of that</p>
<p style="text-align: center;">246</p> <p>1 call -- 2 MR. SWEETEN: Let me just say for the 3 record, it's protected by the legislative privilege. Go 4 ahead. 5 Q. (By Ms. Westfall) Did you receive a phone call 6 from Paul Bettencourt regarding photo ID issues in 7 Representative Harless's office? 8 A. No. 9 Q. Did you receive any phone call from Catherine 10 Engelbrecht concerning photo ID issues? 11 MR. SWEETEN: Objection, asked and 12 answered. 13 Q. (By Ms. Westfall) You may answer. 14 A. Yes. 15 Q. What was that call regarding or concerning? 16 MR. SWEETEN: Don't reveal communications 17 between constituents that contacted your office. It's 18 covered by the legislative privilege. 19 Q. (By Ms. Westfall) In Texas, are there as many 20 driver's license offices as polling locations to your 21 knowledge? 22 MR. SWEETEN: You can answer if you know. 23 A. I don't know the exact numbers of either of 24 those. 25 Q. (By Ms. Westfall) Have there been any driver</p>	<p style="text-align: center;">248</p> <p>1 organization? 2 MR. SWEETEN: Don't reveal communications 3 from potential constituents that's subject to the 4 legislative privilege. 5 Q. (By Ms. Westfall) Is there anything you would 6 like to add so that we can understand your answers more 7 clearly to any of the questions I asked today? 8 A. Not that I can think of right now. 9 Q. Is there any further information beyond the 10 phone call that you received from Advocacy, Inc. that 11 you didn't recall earlier today when I asked you a 12 question that you now recall, or is that the sum total? 13 A. That's what I can think of right now. 14 MS. WESTFALL: So throughout today, your 15 counsel has instructed you not to answer many questions 16 on the basis of legislative privilege. The Attorney 17 General intends to move to compel responses to or will 18 consider moving to compel responses to many of the 19 questions that you did not answer. We therefore leave 20 this deposition open in the event that the Attorney 21 General's motion is granted in whole or in part. And I 22 will now conclude my questioning for today. For the 23 time being, we leave the deposition open and turn over 24 questioning to Mr. Rosenberg. 25 EXAMINATION</p>

<p style="text-align: center;">253</p> <p>1 A. I understand.</p> <p>2 Q. -- in an attorney-client context. Is it your</p> <p>3 testimony that you actually operate as Representative</p> <p>4 Harless's attorney?</p> <p>5 A. In matters where she is asking my -- my opinion</p> <p>6 on a legal issue, that is my understanding.</p> <p>7 Q. Just because it calls for your knowledge of the</p> <p>8 law, you think you're operating as her attorney?</p> <p>9 A. That's my understanding.</p> <p>10 Q. Have documents been withheld from production in</p> <p>11 this case on the basis of attorney-client privilege</p> <p>12 focusing on your relationship with Representative</p> <p>13 Harless as her attorney?</p> <p>14 A. I'm not aware. I don't know.</p> <p>15 Q. Did you review the privilege log in this matter</p> <p>16 relating to documents from Representative Harless?</p> <p>17 A. No.</p> <p>18 Q. Did you advise your attorneys here as to any</p> <p>19 documents that you believed were privileged under</p> <p>20 attorney-client privilege because of your relationship</p> <p>21 as Representative Harless's attorney?</p> <p>22 A. Any documents that we produced?</p> <p>23 Q. Yeah.</p> <p>24 A. No.</p> <p>25 Q. Does Representative Harless maintain any</p>	<p style="text-align: center;">255</p> <p>1 A. Yes.</p> <p>2 Q. And documents were produced from that office</p> <p>3 also?</p> <p>4 A. There were not responsive documents there.</p> <p>5 Q. I think in response to a question from</p> <p>6 Ms. Westfall, you testified that you received text</p> <p>7 messages from Representative Harless during the floor</p> <p>8 debates; is that correct?</p> <p>9 A. A few, yes.</p> <p>10 Q. Was any search made of text messages on</p> <p>11 Representative Harless's telephone to the extent that</p> <p>12 they're kept?</p> <p>13 A. I believe she did search that. I searched mine</p> <p>14 as well. I did not have any responsive documents.</p> <p>15 Q. And --</p> <p>16 A. Texts. Excuse me.</p> <p>17 Q. And during the floor debates, were you able to</p> <p>18 view the floor debates through a closed-circuit</p> <p>19 television?</p> <p>20 A. I had the debate pulled up on the Internet.</p> <p>21 Q. So you were able to watch it as it was going?</p> <p>22 A. Correct.</p> <p>23 Q. And were you also able to speak with</p> <p>24 Representative Harless by telephone during the floor</p> <p>25 debates?</p>
<p style="text-align: center;">254</p> <p>1 documents in her own office? And when I say "her own</p> <p>2 office," I don't mean her office complex, I mean her own</p> <p>3 office.</p> <p>4 A. Capitol office?</p> <p>5 Q. Yeah. Well, does she have more than one</p> <p>6 office?</p> <p>7 A. We have a district office.</p> <p>8 Q. Okay. Well, that's good. Let's talk about</p> <p>9 that, too, but let's start with the Capitol office.</p> <p>10 A. Okay.</p> <p>11 Q. Does Representative Harless maintain any</p> <p>12 documents in the room that's her office in the Capitol</p> <p>13 office?</p> <p>14 A. Yes.</p> <p>15 Q. And you searched those files in connection with</p> <p>16 the production of documents in this case?</p> <p>17 A. Yes.</p> <p>18 Q. And documents were produced from those files?</p> <p>19 A. I don't recall where the documents -- if</p> <p>20 documents came from specifically those files. I</p> <p>21 produced all documents in the office that were</p> <p>22 responsive, so, but I can't recall which file folder it</p> <p>23 actually came from.</p> <p>24 Q. Sure. Was a search also made of her district</p> <p>25 office for responsive documents?</p>	<p style="text-align: center;">256</p> <p>1 A. I believe we did have a phone conversation.</p> <p>2 Q. Do you recall what the phone conversation was</p> <p>3 about?</p> <p>4 MR. SWEETEN: Don't reveal the substance</p> <p>5 of any conversations you've had. If the question is, do</p> <p>6 you recall what it's about, you can go ahead and answer</p> <p>7 "yes" or "no," but do not reveal the substance of those</p> <p>8 communications.</p> <p>9 A. Okay. I don't recall the specifics of the</p> <p>10 phone conversation. It was -- I don't recall the</p> <p>11 specifics.</p> <p>12 Q. (By Mr. Rosenberg) Do you recall anything</p> <p>13 about the phone conversation?</p> <p>14 MR. SWEETEN: Don't reveal the substance</p> <p>15 of it. It's legislatively privileged. But you can</p> <p>16 answer that question.</p> <p>17 A. Based on that, I can't.</p> <p>18 Q. (By Mr. Rosenberg) Well, the question was</p> <p>19 whether you recalled anything. You can give me a "yes"</p> <p>20 or a "no" answer.</p> <p>21 A. Okay. Okay. Yeah. I thought you were asking</p> <p>22 -- yes, I do recall.</p> <p>23 Q. What do you recall about it?</p> <p>24 MR. SWEETEN: Same objection.</p> <p>25 THE WITNESS: Okay. Sorry. Jumped ahead.</p>

<p style="text-align: center;">265</p> <p>1 privilege. I'm going to instruct him that that is</p> <p>2 privileged.</p> <p>3 Q. (By Mr. Rosenberg) Did you have any -- so</p> <p>4 you're not going to answer that question?</p> <p>5 A. Correct.</p> <p>6 Q. Did you have any discussions with local</p> <p>7 officials as to voter fraud in connection with SB 14?</p> <p>8 MR. SWEETEN: Same objection. Same</p> <p>9 instruction.</p> <p>10 A. I'm going to -- the answer is no based on --</p> <p>11 Q. (By Mr. Rosenberg) Did you have any</p> <p>12 discussions with local election officials in connection</p> <p>13 with SB 14?</p> <p>14 MR. SWEETEN: Same objection. Same</p> <p>15 instruction.</p> <p>16 MR. ROSENBERG: Whether he had any</p> <p>17 discussions with local election officials?</p> <p>18 MR. SWEETEN: You can ask if he has had</p> <p>19 contact with local election officials. I'll allow that</p> <p>20 question. I think the other is I think you're treading</p> <p>21 into the substance of conversations and legislative</p> <p>22 fact-gathering that I think is privileged. But go</p> <p>23 ahead, you can answer if you've had contact with local</p> <p>24 election officials.</p> <p>25 A. Yes.</p>	<p style="text-align: center;">267</p> <p>1 question?</p> <p>2 A. No, I cannot.</p> <p>3 Q. Was it related to SB 14?</p> <p>4 A. Yes.</p> <p>5 Q. And what was the substance of your conversation</p> <p>6 with Mr. Hammerline?</p> <p>7 MR. SWEETEN: Same objection. Same</p> <p>8 instruction.</p> <p>9 Q. (By Mr. Rosenberg) And you're not going to</p> <p>10 answer the question?</p> <p>11 A. Correct.</p> <p>12 Q. Other than Mr. Hammerline, did you have</p> <p>13 discussions with any other local election officials</p> <p>14 concerning SB 14?</p> <p>15 A. Not that I remember.</p> <p>16 Q. Do you know if Representative Harless had any</p> <p>17 discussions with any local election officials concerning</p> <p>18 SB 14?</p> <p>19 A. I can't speculate. Not that I know of.</p> <p>20 Q. Do you know if there is any investigation or</p> <p>21 analysis of voter impersonation that has not been made</p> <p>22 public?</p> <p>23 MR. SWEETEN: I object. You're asking for</p> <p>24 information related to the legislative fact-gathering</p> <p>25 process. It also could implicate communications that</p>
<p style="text-align: center;">266</p> <p>1 Q. (By Mr. Rosenberg) With whom did you have</p> <p>2 contact?</p> <p>3 A. The Harris County clerk's office.</p> <p>4 Q. Who at the Harris County clerk's office?</p> <p>5 MR. SWEETEN: You can answer if you know.</p> <p>6 A. I'm trying to remember. George is his first</p> <p>7 name. George Hammerline.</p> <p>8 Q. (By Mr. Rosenberg) Hammerline?</p> <p>9 A. Yes.</p> <p>10 Q. Anyone else?</p> <p>11 A. He's -- George. George is the contact.</p> <p>12 Q. And when did you have a conversation with</p> <p>13 George Hammerline?</p> <p>14 A. Late February.</p> <p>15 Q. Of 2011?</p> <p>16 A. 2011. Yes.</p> <p>17 Q. And what was your -- the purpose of your having</p> <p>18 a conversation with Mr. Hammerline?</p> <p>19 MR. SWEETEN: Once again, I think the</p> <p>20 question implicates legislative fact-gathering. We</p> <p>21 believe that that's part of the legislative privilege.</p> <p>22 I've made that assertion and continue to do so.</p> <p>23 You can answer to the extent that it</p> <p>24 implicates matters of public record, however.</p> <p>25 Q. (By Mr. Rosenberg) Can you answer the</p>	<p style="text-align: center;">268</p> <p>1 he's had with these various parties that I believe are</p> <p>2 subject to the legislative privilege. So I think that</p> <p>3 is within the legislative privilege. I think that is</p> <p>4 not a proper question. I'm going to instruct you not to</p> <p>5 answer.</p> <p>6 Q. (By Mr. Rosenberg) Are you going to answer?</p> <p>7 A. No.</p> <p>8 Q. Do you know a guy named Ed Johnson?</p> <p>9 A. Yes.</p> <p>10 Q. Who is he?</p> <p>11 A. He works for the Harris County clerk's office.</p> <p>12 Q. Okay. Clerk's office or the tax office?</p> <p>13 A. Oh. He works for Harris County. I don't know</p> <p>14 which division he works in.</p> <p>15 Q. Have you ever spoken to him about SB 14?</p> <p>16 A. Yes.</p> <p>17 Q. When did you speak to him?</p> <p>18 A. It was in 2011. I don't know the exact date.</p> <p>19 It was during the session in 2011.</p> <p>20 Q. What was your purpose in speaking with</p> <p>21 Mr. Johnson?</p> <p>22 MR. SWEETEN: Objection to the extent that</p> <p>23 it reveals legislative fact-gathering with respect to</p> <p>24 Senate Bill 14. I believe that's within the legislative</p> <p>25 privilege and instruct you not to answer that question.</p>

<p style="text-align: center;">269</p> <p>1 Q. (By Mr. Rosenberg) Are you going to answer the</p> <p>2 question?</p> <p>3 A. No.</p> <p>4 Q. On that basis?</p> <p>5 A. Yes.</p> <p>6 Q. Did any legislators contact you in order to get</p> <p>7 preapproval for any amendments to SB 14?</p> <p>8 MR. SWEETEN: I'm going to object to the</p> <p>9 extent that that implicates communications between a</p> <p>10 legislator and you subject to the legislative privilege</p> <p>11 and communications.</p> <p>12 A. Were there any communications? Can I -- can</p> <p>13 you repeat the question?</p> <p>14 Q. (By Mr. Rosenberg) Sure. Did any legislators</p> <p>15 contact you in connection with preapproval of any</p> <p>16 amendments that were going to be offered to SB 14?</p> <p>17 MR. SWEETEN: Don't answer to the extent</p> <p>18 that that implicates any communications that you've had</p> <p>19 with legislators, which it plainly does, unless this is</p> <p>20 a matter of public record, for example, a colloquy on</p> <p>21 the floor, discussions that are public.</p> <p>22 A. Got you. Okay. I'm going to not answer the</p> <p>23 question.</p> <p>24 Q. (By Mr. Rosenberg) On that basis?</p> <p>25 A. Correct.</p>	<p style="text-align: center;">271</p> <p>1 questions, Mr. Beuck. Getting back to Mr. Hammerline,</p> <p>2 do you know whether he testified as a witness at any of</p> <p>3 the hearings in connection with the photo ID</p> <p>4 legislation?</p> <p>5 MR. SWEETEN: I'm sorry. Can you repeat</p> <p>6 the question? I apologize. My fault.</p> <p>7 MR. ROSENBERG: I just asked whether</p> <p>8 Mr. Hammerline testified as a witness at any of the</p> <p>9 hearings.</p> <p>10 MR. SWEETEN: Go ahead and answer.</p> <p>11 A. I don't believe he was a witness. He -- he --</p> <p>12 my memory is that he was not a witness in the House. I</p> <p>13 can't speak to the -- I don't believe he was in the</p> <p>14 Senate. I'm not a hundred percent sure. It's possible</p> <p>15 he was in previous sessions. I'm not sure.</p> <p>16 Q. (By Mr. Rosenberg) Is there such a thing</p> <p>17 called "interim hearings" in Texas legislature?</p> <p>18 A. Yes.</p> <p>19 Q. What are interim hearings?</p> <p>20 A. Committees, there are -- during the interim,</p> <p>21 the speaker will issue an interim charge for committees</p> <p>22 to study issues. The committees typically will hold</p> <p>23 hearings, one, maybe two hearings on the</p> <p>24 issue. Sometimes public testimony is taken. Sometimes</p> <p>25 it's not.</p>
<p style="text-align: center;">270</p> <p>1 Q. In connection with the production of e-mails, I</p> <p>2 think you said that they were deleted after 30 days; is</p> <p>3 that correct?</p> <p>4 A. Correct.</p> <p>5 Q. Are you aware of any backup system or archiving</p> <p>6 of e-mails?</p> <p>7 A. There is an archive within our e-mail</p> <p>8 system. We have to manually move the e-mail over to</p> <p>9 that, to that archive. I'm not aware of any automatic</p> <p>10 archiving system.</p> <p>11 Q. And were your archives and Representative</p> <p>12 Harless's archives searched in connection with the</p> <p>13 e-mail production in this case?</p> <p>14 A. Yes.</p> <p>15 Q. Have you spoken with anyone from your IT</p> <p>16 department as to whether or not there is any kind of</p> <p>17 backup system over and above the archiving?</p> <p>18 A. No, I have not.</p> <p>19 Q. Do you know if there is one?</p> <p>20 A. I do not know.</p> <p>21 MR. ROSENBERG: Why don't we take a</p> <p>22 couple-minute break. I might be just about done.</p> <p>23 A. Okay.</p> <p>24 (Recess at 5:57 p.m. to 6:01)</p> <p>25 Q. (By Mr. Rosenberg) Just a couple of more</p>	<p style="text-align: center;">272</p> <p>1 Q. Were there interim hearings on photo ID</p> <p>2 legislation?</p> <p>3 A. Yes. I believe there was.</p> <p>4 Q. Were you involved in those interim hearings?</p> <p>5 A. No, I was not.</p> <p>6 Q. Were you aware of the interim hearings?</p> <p>7 A. Yes. I was aware of the interim hearings.</p> <p>8 Q. Do you know if Mr. Hammerline testified at any</p> <p>9 of the interim hearings?</p> <p>10 A. I don't know.</p> <p>11 Q. Were you involved in organizing witnesses for</p> <p>12 any of the hearings in connection with SB 14?</p> <p>13 A. Yes.</p> <p>14 Q. Were you involved in gathering witnesses in</p> <p>15 connection with -- organizing witnesses in connection</p> <p>16 with any of the hearings on HB 112?</p> <p>17 A. No.</p> <p>18 Q. Which witnesses were you involved with in</p> <p>19 connection with SB 14?</p> <p>20 MR. SWEETEN: Which witnesses did he</p> <p>21 contact? I just want to make sure I'm clear on the</p> <p>22 question.</p> <p>23 Q. (By Mr. Rosenberg) Well, let's start with</p> <p>24 contacting them. We'll go from there.</p> <p>25 A. The Georgia Secretary of State. The gentleman</p>

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1 from Indiana. Wheeler was his last name. Thomas  
 2 Wheeler.  
 3 Q. Anyone else?  
 4 A. There was another individual from -- from  
 5 Austin. I cannot remember his name. I contacted him as  
 6 well.  
 7 Q. Do you remember what issue that witness from  
 8 Austin spoke on or testified on?  
 9 A. His experience with the -- I remember his  
 10 committee testimony was with his experience on the -- he  
 11 was -- he's an attorney from Austin and his experience  
 12 with the Voting Rights Act cases.  
 13 Q. Anyone else?  
 14 A. The expert witnesses.  
 15 Q. Which expert witnesses?  
 16 A. DPS, I mentioned earlier, Rebecca Davio.  
 17 Davio. I'm not sure how it's pronounced.  
 18 Q. Anyone else?  
 19 A. The Attorney General -- Attorney General's  
 20 office have a representative there.  
 21 Q. Do you recall who that was?  
 22 A. No, I do not.  
 23 Q. Ever hear of a guy named Mike Hull? H-U-L-L.  
 24 A. Yes. Yes. I am familiar with his name.  
 25 Q. Who is he?

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1 A. I know his name. I don't really know what he  
 2 does or who he is. I am familiar with his name.  
 3 Q. You ever have any contact with him?  
 4 A. Regarding?  
 5 Q. SB 14?  
 6 A. No.  
 7 Q. Do you know if Representative Harless did?  
 8 A. I don't know.  
 9 Q. You were contacted with the Georgia Secretary  
 10 of State's office. Were those telephone, mail or both?  
 11 A. Telephone, e-mails.  
 12 Q. And what was the nature of your conversation  
 13 with them?  
 14 MR. SWEETEN: Don't reveal your  
 15 communications which relate to legislative fact-  
 16 gathering for Senate Bill 14. To the extent you can  
 17 answer based upon the public record, you can feel free  
 18 to do so. Otherwise, it's legislatively privileged. Go  
 19 ahead.  
 20 MR. ROSENBERG: Just so I'm clear. A  
 21 communication that Mr. Beuck had with a third party  
 22 who's not a constituent, and I'm assuming that Georgia  
 23 Secretary of State is not within your broad definition  
 24 of constituency, is you're asserting privilege over that  
 25 communication?

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1 MR. SWEETEN: I'm saying that when there's  
 2 legislative fact-gathering occurring with respect to  
 3 this bill, Senate Bill 14, that that is squarely within  
 4 the privileges that we've asserted in our briefing, that  
 5 that information he does not have to reveal the  
 6 information related to that fact-gathering. I've let  
 7 him answer as to the contacts. I will let him answer as  
 8 to the public record with respect to these individual  
 9 witnesses. However, as far as the fact-gathering,  
 10 that's squarely on all fours with how we've been  
 11 asserting legislative privilege.  
 12 Q. (By Mr. Rosenberg) Can you answer my question?  
 13 A. What was the nature of the conversation?  
 14 MR. SWEETEN: Yeah. Same objection and  
 15 instruction with respect to legislative fact-gathering.  
 16 Q. (By Mr. Rosenberg) Can you answer?  
 17 A. I cannot. Sorry.  
 18 Q. Same question as to your communication with  
 19 Mr. Wheeler from Indiana. Can you tell me the substance  
 20 of your conversation or correspondence with Mr. Wheeler?  
 21 MR. SWEETEN: Same objection and  
 22 instruction. To the extent that you can reveal  
 23 information from a public record, you can feel free to  
 24 do so.  
 25 A. Okay. No, I cannot.

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1 Q. (By Mr. Rosenberg) And the gentleman or  
 2 gentlewoman from Austin, I think you said was a lawyer  
 3 experienced with the Voting Rights Act. Do you recall  
 4 that person's name?  
 5 A. No, I do not. He also testified in the Senate.  
 6 Q. And can you tell me the substance of your  
 7 conversations or other communications with that person?  
 8 MR. SWEETEN: Same objection and  
 9 instruction.  
 10 A. No, I cannot.  
 11 Q. (By Mr. Rosenberg) Was that person's name Eric  
 12 Opiela?  
 13 A. That does not sound familiar.  
 14 Q. The name Eric Opiela doesn't sound --  
 15 A. Not -- not in this case. I have heard that  
 16 name before, but not -- he was not --  
 17 Q. Where have you heard that name?  
 18 A. I can't say.  
 19 Q. You can't say because you don't want to say?  
 20 A. No. I don't know where I've heard that name  
 21 before.  
 22 MR. ROSENBERG: I have no further  
 23 questions. Thank you.  
 24 MR. SWEETEN: Thank you. Reserve  
 25 questions for time of trial.

<p style="text-align: center;">1</p> <p style="text-align: center;">IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA</p> <p>STATE OF TEXAS, ) Plaintiff, ) VS. ) ERIC R. HOLDER, JR., in ) his official capacity as ) Attorney General of the ) United States, ) Defendant, ) ERIC KENNIE, ET AL, ) Defendant- ) Intervenors, ) TEXAS STATE CONFERENCE OF ) CASE NO. 1:12-CV-00128 NAACP BRANCHES, ) (RMC-DST-RLW) Defendant- ) Three-Judge Court Intervenors, ) TEXAS LEGISLATIVE BLACK ) CAUCUS, et al, ) Defendant- ) Intervenors, ) VICTORIA RODRIGUEZ, et ) al, ) Defendant- ) Intervenors. )</p> <p style="text-align: center;">***** ORAL DEPOSITION OF DENNIS BONNEN JUNE 6, 2012 ***** ORAL DEPOSITION OF DENNIS BONNEN, produced as a witness at the instance of the Defendant, and duly sworn, was taken in the above-styled and numbered cause</p>	<p style="text-align: center;">3</p> <p style="text-align: center;">A P P E A R A N C E S</p> <p>1 2 3 FOR THE PLAINTIFF: Mr. Reynolds Brissenden OFFICE OF THE ATTORNEY GENERAL OF TEXAS 209 West Eighth Street 4 Austin, Texas 78701 5 (512) 936-1307 6 7 FOR THE DEFENDANT HOLDER, ET AL: Ms. Risa Berkower 8 Mr. Bruce Gear U.S. DEPARTMENT OF JUSTICE 9 950 Pennsylvania Avenue, NW Washington, DC 20530 10 (202) 305-7766 11 12 FOR THE RODRIGUEZ DEFENDANT-INTERVENORS: Ms. Nina Perales 13 Mr. Luis Orlando Figueroa, Jr. Ms. Karolina Lyznik MALDEF 14 110 Broadway San Antonio, Texas 78205-1910 15 (210) 224-5476 16 17 18 19 20 21 22 23 24 25</p>
<p style="text-align: center;">2</p> <p>1 on June 6, 2012, from 9:54 a.m. to 7:35 p.m., before 2 Donna Wright, CSR in and for the State of Texas, 3 reported by machine shorthand, at the offices of THE 4 UNITED STATES ATTORNEY, 816 Congress Avenue, Suite 5 1000, Austin, Texas, pursuant to the Federal Rules of 6 Civil Procedure and the provisions stated on the record 7 or attached hereto. 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p style="text-align: center;">4</p> <p style="text-align: center;">INDEX</p> <p>1 2 3 Appearances..... 3 4 5 6 DENNIS BONNEN 7 8 Examination by Ms. Berkower..... 7 Examination by Ms. Perales..... 243 9 Examination (Continued) by Ms. Berkower..... 294 10 11 Witness' Signature Page..... 324 Reporter's Certificate..... 326 12 13 GOVERNMENT EXHIBITS 14 NUMBER DESCRIPTION PAGE 430 ..... 13 15 Notice of Deposition 431 ..... 48 16 Report about Bills Voted on a Committee 432 ..... 75 17 Letter to Rep. Dennis Bonnen from Thomas E. Wheeler, II 433 ..... 91 18 Document Regarding H.B. 1706 434 ..... 113 19 S.B. 362 435 ..... 124 20 Pledge Concerning Voter ID 436 ..... 130 21 H.B. 3556 437 ..... 142 22 Correspondence Between Representative Bonnen and Kathy Rogers 438 ..... 152 23 Interim House Committee Elections Report Filed January 2011 439 ..... 166 24 25 H.B. 624</p>

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1 Q. And you moved back from Washington, D.C. to  
2 run?

3 A. Correct.

4 Q. You were the youngest House member when you  
5 first won; is that correct?

6 A. Well, at -- during that session, yes, at the  
7 time. I was not the youngest historically.

8 Q. So what year were you first elected to the  
9 House?

10 A. It was the '96 election cycle, and I was sworn  
11 in, I guess, January of '97.

12 Q. What are the demographics of your district?

13 A. I don't know.

14 Q. Have you ever known?

15 A. Have I ever reviewed them on a website, yes.

16 But have I ever probably had that information where I  
17 could regurgitate it, no.

18 Q. And I should have asked this before.

19 A. That's okay.

20 Q. Which district do you represent?

21 A. District 25.

22 Q. Where is that located?

23 A. Well, presently it is basically Southern

24 Brazoria County. But from re-districting, it will,

25 moving forward, include Matagorda County for the first

30

1 time.

2 Q. How big is your district, population-wise.

3 A. Gosh, presently -- I don't know. Presently  
4 it's probably around, as we sit today, 140,000 -- well,  
5 maybe more like 130,000.

6 Q. Was it -- has it grown a lot in the time that  
7 you've represented it?

8 A. Let me think about this. That's a little  
9 difficult to answer because in the late '90s it did  
10 grow a lot because I had the north end of Brazoria  
11 County.

12 In the 2000 and 2001 redistricting, I no  
13 longer retained the north end of the county and  
14 remained in the southern end of the county. And in the  
15 last decade the district actually shrunk slightly. So  
16 in the beginning of my tenure, I guess you could say it  
17 grew a fair amount, and then in the last ten years due  
18 to the change of the makeup of the district it was  
19 really probably more flat with maybe a slight decline.

20 Q. How many staff do you have?

21 A. Three.

22 Q. Does that include both the district office and  
23 the Austin office?

24 A. Correct.

25 Q. Who are those staff members?

31

1 A. Jessica Effenberger, who I believe started in  
2 February of this year, somewhere around there.  
3 Steven Schar, who started with us after last session at  
4 some point. And then Shera Eichler, who's been with  
5 me -- I don't know -- eight years or so, eight or  
6 nine years.

7 Q. Do they work in both the district office and  
8 the Capitol office?

9 A. Not really. Jessica Effenberger is in the  
10 district office and Shera Eichler and Steven Schar are  
11 in the Capitol office. Obviously, there are rare  
12 occasions where they maybe travel to one or the other,  
13 but that's very rare.

14 Q. Could you list each and every person who's  
15 voted on voter ID legislation from your office from  
16 2005 to the present?

17 A. I will certainly try. I will probably not do  
18 it effectively, but I will try. Shera Eichler  
19 certainly has worked on it. I guess Steven Schar has.  
20 Gosh, you know, going back to '05, I don't even know.  
21 I apologize.

22 Q. What about --

23 A. Certainly if we pulled a roster of staff I  
24 could tell you.

25 Q. What about if we focus just on the 81st and

32

1 82nd Legislative Sessions?

2 A. Sure.

3 Q. Who worked on it in those sessions, do you  
4 remember?

5 A. Shera Eichler definitely would have.  
6 Linda Winder would have in a limited extent in that  
7 Linda Winder was in the district office. Actually, in  
8 all fairness, Linda wouldn't have worked on  
9 legislation. She would have more dealt with  
10 constituent comments and issues.

11 I apologize. I'm trying to think who --  
12 oh, I guess Carson Hooks may have worked on it. He, I  
13 believe, worked the '09 session.

14 Q. What was his position with you in the  
15 2009 session?

16 A. Legislative staff.

17 Q. And what was Ms. Winder's position with you?

18 A. District assistant and district director. She  
19 wouldn't have worked specifically on legislation. She  
20 would have, as I stated, more done correspondence with  
21 constituents and things of that sort.

22 Q. But Mr. Hooks would have worked on  
23 legislation?

24 A. To some extent, sure.

25 Q. Did you recently campaign for office?

33

1 A. No, not really.  
 2 Q. What do you mean by that?  
 3 A. I was lucky enough to be unopposed.  
 4 Q. Was that in the election on May 29th?  
 5 A. Correct. And in November.  
 6 Q. You were also unopposed in November?  
 7 A. Correct.  
 8 Q. So what was the extent of any campaign that  
 9 you did?  
 10 A. In my mind, I did no campaigning, to be candid  
 11 and honest. I certainly went to community events,  
 12 civic events and was involved in the community. But I  
 13 don't consider that -- that's more my responsibility as  
 14 a representative and things I do year in and year out  
 15 regardless of campaign or not.  
 16 So from a true campaigning election  
 17 perspective, I did really nothing and simply did my  
 18 normal activities in being a positive representative  
 19 involved in his local community as I should be.  
 20 Q. When is the last time you had to campaign  
 21 against an opponent?  
 22 A. I don't know. I guess maybe six years ago.  
 23 And probably then it was not much of one.  
 24 Q. Do you remember if voter identification was an  
 25 issue in that campaign?

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1 A. I don't think it was. I've not had much of a  
 2 campaign.  
 3 Q. When is the last time you voted?  
 4 A. I guess it would be May 29th.  
 5 Q. Did you vote in person that day?  
 6 A. No, I voted early, in person early.  
 7 Q. So in person early for the May 29th election?  
 8 A. Correct.  
 9 Q. How far is your polling place from where you  
 10 live?  
 11 A. It depends on which one they're sending me to  
 12 that day. I guess -- well, to be clear, do you mean  
 13 the one that I used for early voting or the one that  
 14 would be used on the day of the election?  
 15 Q. Well, I guess both. Just first, where is your  
 16 early voting location and how far is it located from  
 17 your house?  
 18 A. I don't know exactly by miles. It's on the  
 19 other side of town. But I live in a town of about  
 20 19,000, so the other side is not significantly far.  
 21 It's probably -- please don't hold me to this. I'm  
 22 guessing -- five to ten miles at the most for the early  
 23 voting pole.  
 24 The election day location is probably,  
 25 you know, three miles away.

35

1 Q. Do you usually vote in person?  
 2 A. Not to be ignorant, but when you say "in  
 3 person," you mean -- obviously, I'm not allowed to vote  
 4 by mail. So you mean early or on election day,  
 5 correct?  
 6 Q. Yes.  
 7 A. Yes, absolutely.  
 8 Q. When you have gone in person to vote, have you  
 9 ever witnessed anyone trying to impersonate another  
 10 voter?  
 11 A. No.  
 12 Q. Have you ever witnessed a noncitizen trying to  
 13 vote?  
 14 A. Not that I would be aware of. But I pretty  
 15 much stick to myself and leave people alone when I'm  
 16 voting, as you should.  
 17 Q. So maybe the next question you've already  
 18 answered, but have you ever challenged a voter's  
 19 eligibility at the polls?  
 20 A. Have I? No.  
 21 Q. Have you ever seen it happen?  
 22 A. Well, no.  
 23 Q. Have you ever served on any committees in the  
 24 House that have handled election issues?  
 25 A. Yes, I guess I have.

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1 Q. What are those?  
 2 A. I guess in 2009 I was on the elections  
 3 committee, and then last session I guess the select  
 4 committee. In the 11th session, the select committee I  
 5 chaired, that only handled one issue.  
 6 Q. What's the name of that committee?  
 7 A. I apologize. I'm not even sure. It's the  
 8 select committee on -- I don't know.  
 9 Q. Voter identification and voter fraud maybe?  
 10 A. You're exactly right.  
 11 Q. Okay.  
 12 A. I'm not trying to be -- I just --  
 13 Q. Were you also on a House select committee on  
 14 election contests?  
 15 A. Oh, I apologize. Yes. Yes, I was. Well, I  
 16 don't know if it was -- you would know. I'm sure  
 17 you've done your homework. It was on a specific  
 18 contest, not broadly speaking.  
 19 Q. Okay. I was going to ask you exactly what  
 20 that committee was.  
 21 A. It -- well, now I'm going to screw up, but to  
 22 the best of my ability I will describe it. We have a  
 23 process in Texas that I will screw up royally. But to  
 24 my knowledge, or to my limited understanding, after the  
 25 election, if there has been, I guess, a recount and

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1 someone chooses to continue in a legislative race -- I  
2 think it's only a legislative race -- I could be wrong  
3 about that, though -- chooses to contest that race,  
4 chooses to continue the -- to question the outcome, the  
5 validity of that, they are able to then take that to  
6 the Texas Legislature.

7 And that committee was created to review  
8 the election in question, which I don't remember the  
9 House district. I know it was an Austin district,  
10 Travis County, and that we sided with the -- we sided  
11 against the Republican candidate who brought the  
12 contest and sided with the Democratic candidate, who  
13 was Donna Howard.

14 Q. What years did you serve on the elections  
15 committee?

16 A. I guess that would be the 2009 session and  
17 then into the 2010 era.

18 Q. Were you on the elections committee in any  
19 other sessions?

20 A. I'm pretty certain I wasn't.

21 Q. And what about the select House committee and  
22 voter identification fraud? What years did you serve  
23 on that committee?

24 A. I guess technically I currently am on it now  
25 and in 2009.

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1 Q. There -- it was in 2009 as well?

2 A. I'm sorry. I misspoke. Thank you. 2011. I  
3 apologize.

4 Q. So just the 82nd Legislative Session?

5 A. Correct. That's correct.

6 Q. How did you come to serve on those committees?

7 MR. BRISSENDEN: I'm going to instruct  
8 you that to the extent that you had communications with  
9 other legislators about the selection process, your  
10 appointment to serve on those committees, I instruct  
11 you not to answer.

12 THE WITNESS: I'm simply appointed.

13 Q. (BY MS. BERKOWER) Who appointed you?

14 A. It is through the committee appointment  
15 process that the Speaker of the House is responsible  
16 for.

17 Q. Did you have any communications with the  
18 Speaker of the House about your appointment?

19 A. I guess that would be privileged, wouldn't it?

20 MR. BRISSENDEN: I'll instruct you --  
21 same instruction.

22 If you can answer the question generally  
23 without disclosing substance of communications or  
24 privilege, you may answer.

25 THE WITNESS: The only communication I

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1 had was the Speaker calling me to tell me that I was  
2 being put on the committee.

3 Q. (BY MS. BERKOWER) Was that the first time you  
4 had heard about the committee?

5 A. I had no clue it existed before then.

6 Q. Okay. Have you -- had you had any experience  
7 in election law prior to serving on the House Elections  
8 Committee in 2009?

9 A. What would you mean by "experience"?

10 Q. In any capacity, I guess. Well, you're not an  
11 attorney --

12 A. Right.

13 Q. -- so was that your first involvement with  
14 election law, being on that committee?

15 A. I would say that's accurate. Certainly being  
16 an elected official and going through some campaigns  
17 and things you have to be aware of some things  
18 regarding election law. But to suggest that I even be  
19 on that committee, much less became a particular expert  
20 on it, wouldn't be entirely accurate.

21 Q. Have you ever been the chair of a committee  
22 relating to election issues?

23 A. I guess in 2011 and the select committee.

24 Q. So maybe just for ease of reference, when we  
25 talk about the select committee we'll just be assuming

40

1 we're referring to the select committee and voter  
2 identification voter fraud?

3 A. Correct, yes, because I don't know the name of  
4 it.

5 Q. Okay. If it turns out that you're referring  
6 to a different select committee you can just specify.

7 A. Absolutely.

8 Q. Okay. So what responsibilities does a House  
9 member have as chair of a committee?

10 A. I think the greatest responsibility is to  
11 ensure that the committee is conducted within the rules  
12 of the House and that all members and all witnesses and  
13 all issues are given the highest degree of respect and  
14 the opportunity to be heard.

15 Q. What, in particular, rules -- are there  
16 particular rules that you're referring to when you say  
17 the rules of the House have to be respected?

18 MR. BRISSENDEN: I'm going to instruct  
19 you that in terms of your knowledge and experience  
20 based upon the particular -- your service on a  
21 particular select committee, if you developed a  
22 knowledge and experience based upon your service on  
23 that select committee with regards to voter ID and  
24 S.B. 14, if that requires you to disclose that  
25 information in regards to this question, I instruct you

<p style="text-align: center;">41</p> <p>1 not to answer.</p> <p>2 To the extent that you can answer the</p> <p>3 question without disclosing that information based upon</p> <p>4 general experience and in general terms, you may</p> <p>5 answer.</p> <p>6 THE WITNESS: I mean, just -- what I'm</p> <p>7 referring to is simply generally following the rules</p> <p>8 that the House adopts at the beginning of each</p> <p>9 legislative session that govern the practices of the</p> <p>10 Texas House and its committee and its work procedure.</p> <p>11 Q. (BY MS. BERKOWER) And what are the procedures</p> <p>12 in place -- sorry. Let me start that question over.</p> <p>13 A. Sure.</p> <p>14 Q. You said that you felt that as the chairman of</p> <p>15 the -- the chairman of the House committee has the</p> <p>16 responsibility to ensure that everyone has an</p> <p>17 opportunity to be heard.</p> <p>18 A. Uh-huh.</p> <p>19 Q. What procedural -- what procedures are there</p> <p>20 to ensure that everyone has an opportunity to be heard?</p> <p>21 MR. BRISSENDEN: Again, I'm going to</p> <p>22 instruct you that with regards to information,</p> <p>23 experience, knowledge that you have in relation to your</p> <p>24 service on the select committee related to the voter ID</p> <p>25 bill, if it requires you to disclose that information,</p>	<p style="text-align: center;">43</p> <p>1 approve at the beginning of every legislative session.</p> <p>2 Q. (BY MS. BERKOWER) And I think I also had</p> <p>3 asked you a question about what procedures do the House</p> <p>4 rules have to ensure that everyone has an opportunity</p> <p>5 to be heard?</p> <p>6 A. Specifically, I'm -- you know, it's what's in</p> <p>7 the book. I don't have it in front of me.</p> <p>8 Q. Do you remember any of the procedures?</p> <p>9 A. Not off the top of my head.</p> <p>10 Q. So as the chair of the select committee, were</p> <p>11 you familiar with the committee? Just as a general</p> <p>12 matter, do you have familiarity with the committee,</p> <p>13 when it met, the proceedings?</p> <p>14 A. Generally speaking.</p> <p>15 Q. What year was the committee convened?</p> <p>16 A. 2011.</p> <p>17 Q. What was the purpose of convening the</p> <p>18 committee?</p> <p>19 MR. BRISSENDEN: I'm going to instruct</p> <p>20 you, to the extent that that question requires you to</p> <p>21 disclose your thoughts, opinions, mental impressions,</p> <p>22 and analysis about legislation, about the legislative</p> <p>23 act of convening the committee, I'm going to instruct</p> <p>24 you not to answer the question.</p> <p>25 THE WITNESS: I wouldn't know.</p>
<p style="text-align: center;">42</p> <p>1 rules, procedures, I would instruct you not to answer.</p> <p>2 To the extent that you can answer the</p> <p>3 question without disclosing that information in general</p> <p>4 terms, you may answer.</p> <p>5 MS. BERKOWER: I think -- just to be</p> <p>6 clear, I think your objection is a little premature.</p> <p>7 I'm asking him general questions about the House -- the</p> <p>8 responsibilities of a chairman of any committee in the</p> <p>9 House, and generally what the House procedures are to</p> <p>10 ensure.</p> <p>11 MR. BRISSENDEN: Well, I believe your</p> <p>12 question was a little bit more in particular about his</p> <p>13 service. And so if he can -- if he can answer the</p> <p>14 question based on general terms and general procedure,</p> <p>15 I believe that's permissible and I'll allow him to</p> <p>16 answer.</p> <p>17 MS. BERKOWER: I said what</p> <p>18 responsibilities does a member have as chair of a</p> <p>19 committee in the House. That's a general question, and</p> <p>20 I don't think your objection is applicable to that</p> <p>21 question.</p> <p>22 MR. BRISSENDEN: My instruction is the</p> <p>23 same.</p> <p>24 THE WITNESS: Generally speaking, the</p> <p>25 responsibilities are what are in the rule book that we</p>	<p style="text-align: center;">44</p> <p>1 Q. (BY MS. BERKOWER) Why wouldn't you know?</p> <p>2 MR. BRISSENDEN: Same instruction.</p> <p>3 Q. (BY MS. BERKOWER) Are you following the</p> <p>4 advice of counsel and not answering?</p> <p>5 A. Yes, I'm following the advice of counsel.</p> <p>6 Q. Okay. Who convened the committee?</p> <p>7 MR. BRISSENDEN: Same instruction.</p> <p>8 MS. BERKOWER: I think we're allowed to</p> <p>9 ask foundational questions like who convened a</p> <p>10 committee. I think that's also probably in the public</p> <p>11 record. Can he answer to the extent that it's in the</p> <p>12 public record?</p> <p>13 MR. BRISSENDEN: If it's a matter that's</p> <p>14 within public record, information that you have, then</p> <p>15 you can answer.</p> <p>16 THE WITNESS: What do you mean by</p> <p>17 "convened the committee"?</p> <p>18 Q. (BY MS. BERKOWER) Did somebody convene the</p> <p>19 committee or call the committee or create the committee</p> <p>20 in some way? It's not a standing committee, right?</p> <p>21 A. It's in the record when committees are</p> <p>22 announced. This committee was also a part of that</p> <p>23 announcement by the Speaker of the House.</p> <p>24 Q. Okay. What types of legislation did the</p> <p>25 committee hear?</p>

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1 A. I believe we heard simply one bill on voter  
 2 ID, Senate Bill 14.  
 3 Q. Was there a reason given in the public record  
 4 as to why that committee was convened?  
 5 A. Maybe. I don't know. I don't recall.  
 6 Q. Can you identify any other committees that  
 7 were formed to consider just one bill?  
 8 A. I wouldn't know.  
 9 Q. Do you remember any during your time in the  
 10 House?  
 11 A. Oh, I'm certain of it, yes.  
 12 Q. Do you remember --  
 13 A. Maybe not one bill, but certainly one issue.  
 14 Q. So in your memory, there were not any other  
 15 committees that were formed to consider just one bill  
 16 during your time in the House?  
 17 A. I'm not saying there weren't. I don't know.  
 18 Q. Well, you don't remember any?  
 19 A. No, I remember -- you're speaking specifically  
 20 to one bill, but committees are not arranged for a  
 21 bill; they're arranged for a subject matter. And there  
 22 have been multiple committees arranged for one specific  
 23 subject matter.  
 24 Q. Did any of those committees consider just one  
 25 bill, to your memory?

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1 A. I don't know. I would imagine some did, but I  
 2 don't know.  
 3 Q. And I think you said that your committee  
 4 considered just one bill, right?  
 5 A. I'm almost certain of that.  
 6 Q. Are you aware of any communications among  
 7 legislators concerning the creation of a special  
 8 committee?  
 9 A. No.  
 10 Q. Does the Speaker also assign members to the  
 11 committee?  
 12 A. That is the Speaker's responsibility, yes.  
 13 Q. Was the select committee a fast-track  
 14 committee?  
 15 MR. BRISSSENDEN: Objection, vague.  
 16 To the extent that you can answer the  
 17 question based upon information that you have -- or  
 18 knowledge that you have from the public record that's  
 19 contained therein, you may answer. To the extent that  
 20 you have knowledge, information based upon information  
 21 not in the public record or that you learned from  
 22 communications with other legislators, legislators'  
 23 staff, your own staff, Texas Legislative Council, and  
 24 state agencies, I would instruct you not to answer.  
 25 THE WITNESS: I don't know what a

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1 fast-track committee is.  
 2 Q. (BY MS. BERKOWER) Okay. Were there any bills  
 3 submitted during the 82nd Legislature to address  
 4 mail-in voter fraud?  
 5 A. I do -- I would assume there was, but I don't  
 6 know.  
 7 Q. Were they referred to the select committee?  
 8 A. I do not know for certain.  
 9 Q. I think you said a few minutes ago that the  
 10 select committee considered only one bill.  
 11 A. That would be correct. I'm almost certain  
 12 that's correct. I would have to check the record, but  
 13 I think that's accurate.  
 14 Q. Well, actually, I can --  
 15 A. Yeah, no. That's -- I just don't want to give  
 16 you inaccurate information, but I believe that's right.  
 17 Q. Okay.  
 18 A. Can I visit with Reynolds a moment?  
 19 Q. Yes.  
 20 MR. BRISSSENDEN: Do you want to take a  
 21 short break?  
 22 MS. BERKOWER: Sure. Or if -- I'm just  
 23 looking for this exhibit.  
 24 MR. BRISSSENDEN: Yeah, just -- no, we  
 25 only need to take a second. I want to visit with him

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1 privately.  
 2 MS. BERKOWER: Okay. That's fine. We'll  
 3 take a short break.  
 4 MR. BRISSSENDEN: Okay.  
 5 (Recess from 10:43 a.m. to 10:51 a.m.)  
 6 Q. (BY MS. BERKOWER) I think we were talking  
 7 before the break about the special -- the select  
 8 committee, and I have what we will mark as Exhibit 431.  
 9 (Exhibit No. 431 marked)  
 10 Q. (BY MS. BERKOWER) Do you know what this is?  
 11 A. It appears to be the committee notice of a  
 12 meeting. I'm sorry. No, this is -- this says it's --  
 13 it seems to be a report about the bills that were voted  
 14 on a committee.  
 15 Q. Okay. So would this explain which bills were  
 16 heard by the committee?  
 17 A. Technically, no, it wouldn't, but, yes, it  
 18 does. You know, there's another report that would tell  
 19 you what all bills were heard. But, yes, this says --  
 20 this is what bills were -- came out of the committee is  
 21 what this report covers.  
 22 With that said, I believe it is the only  
 23 bill that was also heard. But that's not what this  
 24 report speaks to.  
 25 Q. I see. But it is accurate that this is the

<p style="text-align: center;">49</p> <p>1 only bill that the select committee heard?</p> <p>2 A. I believe that is accurate.</p> <p>3 Q. Sir, I think before the break I had asked you</p> <p>4 if any bills submitted during the 82nd Legislature that</p> <p>5 addressed mail-in voter fraud were referred to this</p> <p>6 committee and you couldn't remember.</p> <p>7 A. No.</p> <p>8 Q. Does this refresh your memory?</p> <p>9 A. No, it doesn't.</p> <p>10 Q. Well, you said this is the only bill that the</p> <p>11 committee heard. Is that true?</p> <p>12 A. I believe it's the only one heard. But the</p> <p>13 question you asked is if any had been referred to the</p> <p>14 committee. And I don't know what bills had been</p> <p>15 referred over there versus what was heard.</p> <p>16 Q. Okay. So sometimes bills are referred to a</p> <p>17 committee but not heard?</p> <p>18 A. That's correct.</p> <p>19 Q. I see. But to your memory, you don't remember</p> <p>20 hearing any bills about mail-in voter fraud as part of</p> <p>21 the select committee. Is that accurate?</p> <p>22 A. That would be accurate.</p> <p>23 Q. And who decides where bills are sent with</p> <p>24 regard to which committee they're sent to?</p> <p>25 MR. BRISSENDEN: To the extent you can</p>	<p style="text-align: center;">51</p> <p>1 Q. I'm asking you.</p> <p>2 A. I'm not certain.</p> <p>3 Q. Is there --</p> <p>4 A. I don't know whether it's parliamentary or</p> <p>5 the Speaker's office who has declared the authority on</p> <p>6 that.</p> <p>7 Q. Are those generally referred according to</p> <p>8 subject matter to different committees?</p> <p>9 A. Usually.</p> <p>10 Q. Sometimes they're not, though?</p> <p>11 A. That would be correct.</p> <p>12 Q. Is there any rhyme or reasoning as to when</p> <p>13 they're not referred by subject matter?</p> <p>14 MR. BRISSENDEN: To the extent you can</p> <p>15 answer that question based upon information that's in</p> <p>16 the public record or with regards to general procedural</p> <p>17 rules, you may answer. To the extent that you have any</p> <p>18 knowledge or the question requires you to disclose</p> <p>19 communications, information that you have based upon</p> <p>20 communications with other legislators or your staff or</p> <p>21 their staff, I instruct you not to answer.</p> <p>22 THE WITNESS: I think, to answer your</p> <p>23 question, the issue is -- and it would be specific to</p> <p>24 the issue you're concerned about -- is that many times</p> <p>25 there are bills that fall clearly within the</p>
<p style="text-align: center;">50</p> <p>1 answer that question based upon -- the question refers</p> <p>2 to as a general matter. I believe you're asking as</p> <p>3 general matter, general procedural?</p> <p>4 MS. BERKOWER: I'm asking as a general</p> <p>5 matter who decides where bills are referred to.</p> <p>6 MR. BRISSENDEN: You can answer.</p> <p>7 THE WITNESS: You know, that's a</p> <p>8 mysterious question that many legislators would like to</p> <p>9 better know the answer to. And the accuracy of my</p> <p>10 comment is proven by laughter at the end.</p> <p>11 But from a technical matter -- well, I</p> <p>12 don't want to be incorrect. I think technically</p> <p>13 speaking it is the Speaker's office or the</p> <p>14 parliamentarian -- or maybe it's the House</p> <p>15 parliamentarian -- who would decide the referral of</p> <p>16 bills.</p> <p>17 Q. (BY MS. BERKOWER) So when you said -- just to</p> <p>18 follow up on what you said, that a lot of legislators</p> <p>19 would like to know more specifically who decides, why</p> <p>20 don't -- like, what do you mean by that?</p> <p>21 A. Well, I think more generally they're obviously</p> <p>22 being -- I don't know if it's specifically -- I guess</p> <p>23 it is specifically described in the rules, and I don't</p> <p>24 know what the rules say in that area. Is it the</p> <p>25 parliamentarian or --</p>	<p style="text-align: center;">52</p> <p>1 jurisdiction of more than one committee. And so that</p> <p>2 bill or other similar bills may be referred in some</p> <p>3 instances. Some of those bills that look the same may</p> <p>4 go to one committee while other bills who look the same</p> <p>5 may go to another committee because both committees, or</p> <p>6 even three or four committees -- not normally as many</p> <p>7 as four, but maybe two or three -- have overlapping</p> <p>8 jurisdiction where arguments can be made intelligently</p> <p>9 that they could go to those committees.</p> <p>10 Q. (BY MS. BERKOWER) So do you know why S.B. 14</p> <p>11 was not referred to the elections committee?</p> <p>12 A. I do not.</p> <p>13 MR. BRISSENDEN: Objection, legislative</p> <p>14 privilege. I instruct you not to answer.</p> <p>15 MS. BERKOWER: Well, to be clear,</p> <p>16 Reynolds, I asked him if he knew. I did not ask him</p> <p>17 the substance of what he knew. And those are questions</p> <p>18 that we've been permitted to ask, initial questions,</p> <p>19 throughout all of the depositions that we've conducted</p> <p>20 in this case.</p> <p>21 MR. BRISSENDEN: I disagree with your</p> <p>22 analysis.</p> <p>23 MS. BERKOWER: Well, we can cite</p> <p>24 authority in the court -- from the court's opinions if</p> <p>25 you would like. We can take a break and go through</p>

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1 that and I can show you excerpts from other depositions  
2 in which those questions have been permitted.

3 MR. BRISENDEN: Well, I've gone through  
4 the court's order of yesterday that was issued, and it  
5 specifically addresses and outlines all the different  
6 landscape of the privilege. And then I think -- well,  
7 I think my analysis is correct and I'll stand by the  
8 instruction.

9 MS. BERKOWER: Well, to be clear, we're  
10 tailoring our questions today in accordance with the  
11 court's instructions because you recognize that the  
12 court did actually rule on the motion and defined  
13 several areas of privilege in which we are not supposed  
14 to be asking questions.

15 MR. BRISENDEN: Okay.

16 MS. BERKOWER: And, for the record, we do  
17 not agree with the court's view on that, but we will  
18 be -- we plan to preserve our objections for the future  
19 and for the record. But with regard to question of "do  
20 you know why," a yes or no question that's  
21 foundational, doesn't get into substance, we believe  
22 those questions are permissible even under the court's  
23 order of yesterday.

24 MR. BRISENDEN: And I disagree with your  
25 analysis. It's invading his opinions, his thought

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1 processes, what he knows and doesn't know. And that's  
2 with regard to legislative acts and specifically  
3 S.B. 14.

4 MS. BERKOWER: Okay. We'll move on.

5 Q. (BY MS. BERKOWER) Are you familiar with the  
6 Federal Voting Rights Act?

7 A. I know of its existence.

8 Q. Are you familiar with Section 5 of the Voting  
9 Rights Act?

10 A. I'm aware it exists.

11 Q. What is your understanding of the  
12 requirements, if you --

13 A. It's the law of the land.

14 Q. Do you know any specifics about what Section 5  
15 requires?

16 A. Not really. I know you're to not  
17 discriminate.

18 Q. What do you mean by that?

19 A. What I said.

20 Q. Well, in what way are you not supposed to  
21 discriminate?

22 A. In any way.

23 Q. Does it relate specifically to voting?

24 A. I assume so. I've not studied the Act.

25 Q. And is the -- when you say you're "not to

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1 discriminate," does that relate to racial and ethnic  
2 minorities?

3 A. Usually that's what discrimination means.

4 Q. What about language minorities, people who are  
5 limited in English proficiency?

6 MR. BRISENDEN: I'm going to instruct  
7 you to the extent that you can answer that question  
8 with regards to your general knowledge outside of the  
9 work that you did in relation to S.B. 14, you may  
10 answer. To the extent that you have knowledge with  
11 regards to -- that you developed with regards to the  
12 Voting Rights Act in connection with your work  
13 specifically on S.B. 14, I would instruct you not to  
14 answer.

15 THE WITNESS: I'll accept his  
16 instruction.

17 Q. (BY MS. BERKOWER) Okay. Do you believe that  
18 compliance with the Federal Voting Rights Act is an  
19 important consideration in the lawmaking process?

20 MR. BRISENDEN: Objection, vague.

21 Q. (BY MS. BERKOWER) You may answer.

22 A. Could you repeat the question?

23 Q. Do you believe that compliance with the  
24 Federal Voting Rights Act is an important consideration  
25 in the lawmaking process?

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1 MR. BRISENDEN: Again, I'm going to  
2 instruct -- first of all, the question is vague.  
3 Secondly, I'm going to instruct you that to the extent  
4 that you have information and knowledge and the  
5 question requires you to disclose information and  
6 knowledge in connection with your work specifically in  
7 connection with S.B. 14, I instruct you not to answer.  
8 To the extent you can answer the question in general  
9 terms, you may answer.

10 THE WITNESS: Repeat it again.

11 Q. (BY MS. BERKOWER) I asked if you believe that  
12 compliance with the Federal Voting Rights Act is an  
13 important consideration in the lawmaking process?

14 MR. BRISENDEN: Same instruction.

15 THE WITNESS: Generally we try to follow  
16 the law.

17 Q. (BY MS. BERKOWER) Prior to S.B. 14's passage  
18 did you understand that it would be subject to  
19 preclearance under Section 5?

20 MR. BRISENDEN: I'm going to instruct  
21 the witness if that information -- that question  
22 requires you to disclose thoughts, opinions, mental  
23 analysis, mental impressions about S.B. 14, I instruct  
24 you not to answer the question.

25 MS. BERKOWER: You're not letting him

<p style="text-align: center;">65</p> <p>1 A. Absolutely.</p> <p>2 Q. Do you remember who attended an ALEC</p> <p>3 conference with you?</p> <p>4 A. Not really. I mean, you know, we could go</p> <p>5 through the roster and I could make some fairly</p> <p>6 accurate guesses and some fairly inaccurate guesses.</p> <p>7 Q. Do you remember who -- which of the Texas --</p> <p>8 which other Texas legislators attended the National</p> <p>9 Conference of State Legislators conference that you</p> <p>10 attended?</p> <p>11 A. Not specifically, no. I think</p> <p>12 Senator Van de Putte was the chair of the organization</p> <p>13 at the time and was there.</p> <p>14 Q. What is the current system under state law for</p> <p>15 determining -- for determining how to verify the</p> <p>16 identity of a voter?</p> <p>17 A. It's whatever the law says. I don't know the</p> <p>18 law off the top of my head.</p> <p>19 Q. Do you have any sense of what the law</p> <p>20 currently says?</p> <p>21 A. Not really, no.</p> <p>22 Q. Do you know if the counties issue voter</p> <p>23 registration cards to voters?</p> <p>24 A. My understanding is that they do.</p> <p>25 Q. And they mail the voter registration cards to</p>	<p style="text-align: center;">67</p> <p>1 presented in the public conversation in the committee</p> <p>2 process.</p> <p>3 Q. (BY MS. BERKOWER) And were there reports of</p> <p>4 voter registration cards being stolen during the public</p> <p>5 committee?</p> <p>6 A. I don't remember specifically if that was some</p> <p>7 of what was discussed, but I know generally there were</p> <p>8 those type issues talked about in the public, and</p> <p>9 expert testimony.</p> <p>10 Q. So the current system does require voters to</p> <p>11 present identification of some sort. Is that accurate?</p> <p>12 A. I believe it is.</p> <p>13 Q. So what was the purpose of photo</p> <p>14 identification legislation in Texas given that the law</p> <p>15 already requires identification?</p> <p>16 MR. BRISSENDEN: To the extent that you</p> <p>17 can answer that question, generally speaking, as to</p> <p>18 what the general purpose of the legislation was, you</p> <p>19 may answer.</p> <p>20 THE WITNESS: The general purpose is to</p> <p>21 provide the highest degree of confidence and integrity</p> <p>22 in our elections.</p> <p>23 Q. (BY MS. BERKOWER) Is there any other purpose?</p> <p>24 A. Not that I know of.</p> <p>25 MS. BERKOWER: Okay. I think -- can we</p>
<p style="text-align: center;">66</p> <p>1 their voters?</p> <p>2 A. They're supposed to.</p> <p>3 Q. And voters can bring those cards with them to</p> <p>4 the polls?</p> <p>5 A. Yes. They don't have to, I don't think,</p> <p>6 though.</p> <p>7 Q. And if they don't have that card can a voter</p> <p>8 show any ID from a various long list of IDs, including</p> <p>9 non-photo IDs in order to vote?</p> <p>10 A. I don't know.</p> <p>11 Q. What about if a voter doesn't have those, can</p> <p>12 they cast a provisional ballot?</p> <p>13 A. I don't know absolutely, but I believe that</p> <p>14 they can.</p> <p>15 Q. Have you ever heard any reports of voter</p> <p>16 registration cards being stolen?</p> <p>17 MR. BRISSENDEN: To the extent that that</p> <p>18 question requires you to disclose information that</p> <p>19 you -- or knowledge that you received in relation to</p> <p>20 your work on S.B. 14, I instruct you not to answer.</p> <p>21 To the extent that you have general</p> <p>22 information or knowledge beyond your work on S.B. 14 or</p> <p>23 that is information that is part of the public record</p> <p>24 you may answer.</p> <p>25 THE WITNESS: Only -- only information</p>	<p style="text-align: center;">68</p> <p>1 take a short break, please, off the record?</p> <p>2 (Recess from 11:15 a.m. to 11:53 a.m.)</p> <p>3 Q. (BY MS. BERKOWER) So I think we're going to</p> <p>4 go back through a few questions we went through before,</p> <p>5 and your counsel will instruct you pursuant to a</p> <p>6 discussion we had off the record.</p> <p>7 MR. BRISSENDEN: For the record, the only</p> <p>8 question you've asked about is one question in</p> <p>9 particular. If you have more questions you want to</p> <p>10 review we need to take another break and discuss those.</p> <p>11 MS. BERKOWER: Okay. Then we need to</p> <p>12 take another break.</p> <p>13 (Discussion off the record.)</p> <p>14 MS. BERKOWER: We'll go back on now.</p> <p>15 Q. (BY MS. BERKOWER) Sir, like I said a minute</p> <p>16 ago, we'll go back to some questions and make our</p> <p>17 record.</p> <p>18 So are you familiar with the Federal</p> <p>19 Voting Rights Act?</p> <p>20 MR. BRISSENDEN: Same objection, same</p> <p>21 answer, same instruction. The question has been asked</p> <p>22 and answered. In terms of instructing you not to</p> <p>23 disclose your mental impressions, thoughts, information</p> <p>24 that you have in connection with your work, either</p> <p>25 legislative activities involving drafting, debating</p>

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1 information, gathering with respect to S.B. 14.  
 2 Now, to the extent that you have  
 3 information or have knowledge with regards to HABA Act  
 4 that you learned separate and apart from your work in  
 5 connection with S.B. 14, outside of the context of  
 6 legislature, you may -- or if the knowledge that you  
 7 have is information that was part of the public record,  
 8 debate on the floor, you may -- or in committee, you  
 9 may answer the question.  
 10 Do you understand?  
 11 THE WITNESS: Yes, I do.  
 12 MS. BERKOWER: Okay. So just to be  
 13 clear, I think you just said "HABA." That's not  
 14 actually what I asked him about. I asked him about the  
 15 Federal Voting Rights Act. So can you just --  
 16 MR. BRISSENDEN: Oh, I'm -- I'll change  
 17 that and amend it to the Federal -- what was it?  
 18 MS. BERKOWER: Voting Rights Act.  
 19 MR. BRISSENDEN: -- Voting Rights Act.  
 20 MS. BERKOWER: And I think you said,  
 21 "Same objection, same instruction." I'm not exactly  
 22 sure what you were referring to there.  
 23 MR. BRISSENDEN: The question that you  
 24 asked is the same as what you asked previously.  
 25 MS. BERKOWER: Okay. So you're referring

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1 back to the time you objected when I asked the question  
 2 before?  
 3 MR. BRISSENDEN: That's right.  
 4 MS. BERKOWER: Okay. Well, I'm not --  
 5 Q. (BY MS. BERKOWER) Well, can you answer based  
 6 on his instruction?  
 7 A. No.  
 8 Q. Okay. Well --  
 9 A. Other -- other -- well, based on his  
 10 instruction, I can answer that it was discussed in the  
 11 public setting of the House floor and in the committee.  
 12 Q. Okay. So you're familiar with -- you were  
 13 aware of the Federal Voting Rights Act through the  
 14 public debate?  
 15 A. And the committee discussion.  
 16 Q. And the committee discussion.  
 17 MS. BERKOWER: And, to be clear, I wasn't  
 18 asking him about whether he considered the Federal  
 19 Voting Rights Act in connection with any deliberation  
 20 or legislative activity. I was merely asking him  
 21 whether -- or even in connection specifically with any  
 22 voter identification legislation or S.B. 14. I merely  
 23 asked if he was aware of the Federal Voting Rights Act  
 24 as a general matter.  
 25 Q. (BY MS. BERKOWER) Are you familiar with

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1 Section 5 of the Voting Rights Act?  
 2 MR. BRISSENDEN: My instruction would be  
 3 the same. To the extent that you have knowledge or  
 4 information about the section in regards to your -- or  
 5 information that was in the public record or apart from  
 6 your work on S.B. 14 as a general matter, you may  
 7 answer. Otherwise, I'm instructing you not to.  
 8 THE WITNESS: The same answer.  
 9 It was mentioned on the House floor and  
 10 it was discussed during committee deliberations -- not  
 11 deliberations, but committee hearing.  
 12 Q. (BY MS. BERKOWER) Do you know what The Help  
 13 America Vote Act is?  
 14 MR. BRISSENDEN: Again, same instruction.  
 15 To the extent that you have knowledge or information  
 16 about that act in connection with -- or information  
 17 that was presented in the public record or that you  
 18 have knowledge about aside from your work on S.B. 14,  
 19 you may answer. Otherwise, I instruct you not to  
 20 answer.  
 21 THE WITNESS: I'll follow the  
 22 instruction. I mean, the answer is the same. I mean,  
 23 it was mentioned on the House floor and it was  
 24 mentioned during committee hearing.  
 25 Q. (BY MS. BERKOWER) Okay. To be clear on that,

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1 I'm asking you whether you knew it in connection with  
 2 legitimate legislative activity or any deliberation.  
 3 And I also did not ask for it in the context that would  
 4 reveal anything about your deliberations or legislative  
 5 activities.  
 6 MR. BRISSENDEN: But the question as  
 7 phrased encompasses both his work in connection with  
 8 his legislative activity and outside of the context of  
 9 his work on the legislative activity. So because of  
 10 the broad scope of the question I'm having to assert  
 11 the privilege.  
 12 MS. BERKOWER: And as we explained off  
 13 the record -- we had a discussion about this, and I  
 14 referred you to Page 8 of the court's June 5th order.  
 15 We're not asking -- we're asking this purely as a  
 16 general matter to find out if he knew generally about  
 17 it. We're not asking for anything in connection  
 18 specifically, anything that leads it specifically to  
 19 his deliberations or legislative activities.  
 20 As a result, we view this as a basic  
 21 foundational question that we're permitted to ask under  
 22 that order and under the court's May 17th order.  
 23 MR. BRISSENDEN: I'm directing your  
 24 attention to the top of Page 8. Because the question  
 25 is very broad, it implicates public or otherwise

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1 nonprivileged information in terms of whether -- or his  
2 state of knowledge, consideration as a Texas legislator  
3 in connection with legislative activities.

4 MS. BERKOWER: And we view the question  
5 as broad enough to encompass -- broad enough not to  
6 require specific information that connects it to his  
7 specific legislative activities.

8 Unless you have something further, we'll  
9 move on.

10 MR. BRISSENDEN: We'll move on.

11 Q. (BY MS. BERKOWER) Have you ever heard of a  
12 Supreme Court decision in the case Crawford versus  
13 Marion County concerning Indiana voter identification  
14 law?

15 MR. BRISSENDEN: My instruction to you is  
16 the same. We've just reviewed and just discussed in  
17 connection with this question as well.

18 THE WITNESS: I believe, again, it was  
19 discussed possibly on the House floor and I think  
20 brought up in committee.

21 Q. (BY MS. BERKOWER) When was it mentioned in  
22 committee?

23 A. I believe it was mentioned when we had a  
24 public hearing.

25 Q. Do you remember when that was?

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1 A. The date of the public hearing?

2 Q. Do you remember the date?

3 A. Not off the top of my head. I think it was  
4 February of '11.

5 Q. Who was present during that hearing?

6 A. Lots of people. I mean, the public is invited  
7 in and welcome, and so many people.

8 Q. Do you remember if anyone in particular  
9 testified about the decision?

10 A. No.

11 Q. Do you remember what they said about the  
12 decision?

13 A. No.

14 Q. Do you remember any discussion generally about  
15 the decision during that hearing?

16 A. Not at this time.

17 Q. You also said it was mentioned on the floor.  
18 Is that a separate time?

19 A. Well, possibly. Yeah, possibly. I don't  
20 specifically remember.

21 Q. Did anyone mention during their testimony that  
22 it impacted the State's ability to develop photo  
23 identification laws?

24 A. I don't recall.

25 Q. Are you aware of any communications between

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1 Texas legislators and officials in Indiana regarding  
2 its photo ID law or the proper decision?

3 A. I'm not, no.

4 Q. Did you have any communications with Indiana  
5 officials?

6 A. The reason for my hesitation is that I did not  
7 personally have any direct communication with them.  
8 I'm unable to recall whether someone connected to  
9 Indiana testified in public hearing or not. And I  
10 don't remember the record on that. I personally did  
11 not, though, in a private setting.

12 Q. I'm going to mark this as Exhibit 432, please.  
13 (Exhibit No. 432 marked)

14 Q. (BY MS. BERKOWER) Do you recall -- do you  
15 know what this is?

16 A. It looks like a letter.

17 Q. Who is the letter addressed to?

18 A. Rep. Dennis Bonnen, Chair.

19 Q. Would that be you?

20 A. Yes, it would.

21 Q. Was it addressed to you in the context of your  
22 chairmanship on the select committee?

23 A. It appears it was.

24 Q. Do you remember the letter at all?

25 A. No.

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1 Q. Can you review it now, please?

2 A. Certainly. (Reading).

3 Q. Let me know when you've had a chance to look  
4 through the whole thing.

5 A. Sure. No, go ahead. I can't promise I've got  
6 it all down.

7 Q. What was the substance of this -- of this  
8 letter as a general matter?

9 MR. BRISSENDEN: Objection to the extent  
10 the document speaks for itself.

11 Q. (BY MS. BERKOWER) You can answer.

12 A. "I would like to share with you Indiana's  
13 experiences with regard to our photo ID voting  
14 requirement."

15 Q. Did anyone solicit this input from Indiana,  
16 from this person in Indiana?

17 A. I did not. I can't speak for others.

18 Q. And just to be clear, who was it who wrote the  
19 letter? If you turn to the last page, I think it says.

20 A. It has no signature on it, but it has a typed  
21 name of Thomas E. Wheeler, II.

22 Q. So do you know -- does the letter explain what  
23 the ID requirements in Indiana are under their voter ID  
24 law?

25 A. It might.

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1 Q. Can you turn to Page 3 at the top.  
 2 A. It appears that it does.  
 3 Q. And what are those requirements?  
 4 A. "Indiana's photo ID law requires that all  
 5 Indiana residents present photo ID before casting a  
 6 ballot in person at the polls on election day. The  
 7 photo ID must meet full criteria to be acceptable for  
 8 voting purposes. The ID must be issued by the State of  
 9 Indiana or the US Government, display the voter's  
 10 photo, display an expiration date that is either  
 11 current or expired no earlier than the date of the last  
 12 general election, and display the voter's name such  
 13 that it reasonably conforms with the name on the voter  
 14 registration card" (as read).  
 15 And then in quotes it says "poll book,"  
 16 period.  
 17 Q. Is that what you understand the requirements  
 18 of the Indiana law to be?  
 19 A. I have no real knowledge to know whether this  
 20 is accurate or inaccurate.  
 21 Q. Do you have any idea what the process was by  
 22 which this particular person was selected to provide  
 23 input on Indiana law?  
 24 MR. BRISSENDEN: To the extent the  
 25 question requires you to disclose any information that

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1 you may have conducted as part of your investigation,  
 2 your work, your staff may have done as part of your  
 3 analysis in regards to S.B. 14, I instruct you not to  
 4 answer. To the extent that you can answer the question  
 5 without disclosing that information, you may proceed.  
 6 THE WITNESS: Could you repeat the  
 7 question?  
 8 Q. (BY MS. BERKOWER) I said, what was -- do you  
 9 know what the process was by which this person was  
 10 selected to provide input about the Indiana voter ID  
 11 law.  
 12 MR. BRISSENDEN: And, also, do not  
 13 disclose any communications that you had with other  
 14 legislators.  
 15 THE WITNESS: I do not know.  
 16 Q. (BY MS. BERKOWER) Do you know who  
 17 Thomas E. Willard, III is?  
 18 A. Not at all.  
 19 Q. Have you ever met him?  
 20 A. Not that I'm aware of.  
 21 Q. And what was the date on which this letter was  
 22 received?  
 23 A. It appears that it was after the committee  
 24 hearing and it was on March the 1st of 2011.  
 25 Q. In your memory, was that before the House

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1 voted on Senate Bill 14?  
 2 A. I do not know. If I had to guess -- I imagine  
 3 you'll have the record. My guess is it was probably  
 4 before the House voted.  
 5 Q. Do you know, was this letter entered into the  
 6 public record as a result of it being sent to you as  
 7 the chair of the select committee?  
 8 A. I do not know. My guess is it probably was  
 9 not for the reason that the committee had already had  
 10 its public meeting and submitted its report by  
 11 March 1st is my guess. I don't know absolutely.  
 12 Q. And does the letter explain at all why Indiana  
 13 decided to pass this law?  
 14 A. I guess you could say he makes an attempt at  
 15 that by discussing on the first page, according to  
 16 press reports during the East Chicago City primary  
 17 election on May 6th, 2003, and then he continues on to  
 18 discuss a concern.  
 19 Q. That there was an incident of voter fraud that  
 20 was prosecuted?  
 21 A. That's what it appears to describe.  
 22 Q. Do you know of any similar incident that was  
 23 included in the public record involving a prosecution  
 24 for in-person election fraud in Texas?  
 25 MR. BRISSENDEN: Again, you're asking

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1 him --  
 2 MS. BERKOWER: I said in the public  
 3 record.  
 4 MR. BRISSENDEN: The public record.  
 5 THE WITNESS: Yes. I know in the  
 6 committee hearing there was discussion of a case, but  
 7 believe due to the fact that the case may have been  
 8 ongoing the discussion was limited.  
 9 Q. (BY MS. BERKOWER) Was it just that one case  
 10 that you're remembering?  
 11 A. There may have been two, but I'm not positive  
 12 of that.  
 13 Q. And do you also see in Paragraph 2 of the  
 14 letter -- sorry. On the first page --  
 15 A. Right.  
 16 Q. -- in the third full paragraph, it says, "Data  
 17 collected by the election assistance committee in 2004  
 18 indicated that 19 of Indiana's 96 counties have  
 19 registration totals exceeding 100 percent of the 2004  
 20 voting age population" (as read).  
 21 Do you see that?  
 22 A. Yes, ma'am.  
 23 Q. Do you know of any similar problem in any  
 24 Texas counties?  
 25 MR. BRISSENDEN: To the extent that you

<p style="text-align: center;">81</p> <p>1 have information or knowledge in connection with your</p> <p>2 S.B. 14, including analysis --</p> <p>3 MS. BERKOWER: I'll limit this to the</p> <p>4 public record. How about that?</p> <p>5 MR. BRISSSENDEN: Let me finish.</p> <p>6 -- then do not answer and disclose that.</p> <p>7 If you can answer the question limited to the public</p> <p>8 record, information that's contained therein, you may</p> <p>9 answer.</p> <p>10 THE WITNESS: I'm not sure whether --</p> <p>11 similar type issues were raised in the public record.</p> <p>12 I don't know specifically if they were on target with</p> <p>13 that or not.</p> <p>14 Q. (BY MS. BERKOWER) "Similar type issues"</p> <p>15 meaning what?</p> <p>16 A. In the public. Issues of irregularities with</p> <p>17 voter registration.</p> <p>18 Q. Do you remember more specifically what those</p> <p>19 irregularities were?</p> <p>20 A. No, I do not. They're in the public record,</p> <p>21 though.</p> <p>22 Q. Were there any incidences that you remember</p> <p>23 where a Texas county had a registration total that</p> <p>24 exceeded 100 percent of the voting age population?</p> <p>25 MR. BRISSSENDEN: Again, I'm going to</p>	<p style="text-align: center;">83</p> <p>1 A. It is a bill, House Bill 1706, by</p> <p>2 Mrs. Renny and others.</p> <p>3 Q. Can you describe the basic provisions of the</p> <p>4 bill, if you remember them?</p> <p>5 A. I don't really remember them.</p> <p>6 Q. Okay. Were you involved in the development of</p> <p>7 this bill?</p> <p>8 A. No.</p> <p>9 Q. Turning to Page 4 of the exhibit, can you</p> <p>10 review that page and the next? I think the pages</p> <p>11 include Pages 4 through 7 of this exhibit.</p> <p>12 A. Okay. Certainly. (Reading).</p> <p>13 Q. Let me know when you're done.</p> <p>14 A. Sure.</p> <p>15 I'm done.</p> <p>16 Q. Okay. Could you list the forms of allowable</p> <p>17 identification provided in the bill?</p> <p>18 A. I can try. "The following documentation is an</p> <p>19 acceptable form of photo identification under this</p> <p>20 chapter. No. 1, a driver's license or personal</p> <p>21 identification card issued to the person by the</p> <p>22 Department of Public Safety or the equivalent agency</p> <p>23 for another -- of another state that is not expired or</p> <p>24 that expired no later than two years before the date of</p> <p>25 presentation; 2, a United States military</p>
<p style="text-align: center;">82</p> <p>1 instruct you to the extent that that question is asking</p> <p>2 you for information that's beyond the public record not</p> <p>3 to answer the question. To the extent that you can</p> <p>4 answer the question based upon information that's in</p> <p>5 the public record, you can answer.</p> <p>6 THE WITNESS: I'll follow his</p> <p>7 instruction.</p> <p>8 Q. (BY MS. BERKOWER) So to be clear, then, with</p> <p>9 regard to the public record, do you remember any</p> <p>10 incident reported on the public record where a Texas</p> <p>11 county had more than 100 percent registration based on</p> <p>12 the voting age population in that county?</p> <p>13 A. I recall issues being raised. I don't know if</p> <p>14 that specifically was.</p> <p>15 Q. Okay. Are you familiar with the voter</p> <p>16 identification bill that was introduced in the House in</p> <p>17 2005?</p> <p>18 A. In the regard that I'm aware something was</p> <p>19 probably filed. Specifically, I don't recall it.</p> <p>20 Q. I have what has been previously marked</p> <p>21 Exhibit 44, so I will remark it here as Exhibit 44.</p> <p>22 A. Thank you.</p> <p>23 Q. Do you recognize this?</p> <p>24 A. I do have a recollection of it, yes.</p> <p>25 Q. What is it?</p>	<p style="text-align: center;">84</p> <p>1 identification card that contains the person's</p> <p>2 photograph; No. 3, a valid employee identification card</p> <p>3 that contains the person's photograph and is issued by</p> <p>4 an employer of the person in the ordinary course of the</p> <p>5 employer's business; No. 4, a United States citizenship</p> <p>6 certificate issued to the person that contains the</p> <p>7 person's photograph; 5, a United States passport issued</p> <p>8 to the person; 6, a student identification card issued</p> <p>9 by public or private institution of higher education</p> <p>10 that contains the person's photograph; 7, a license to</p> <p>11 carry a concealed handgun issued to the person by the</p> <p>12 Department of Public Safety; No. 8, an identification</p> <p>13 card issued by a state agency of this state that</p> <p>14 contains the person's photograph; or, 9, an</p> <p>15 identification card that contains the person's</p> <p>16 photograph and/or is issued by a county elections</p> <p>17 administrator or a county clerk" (as read).</p> <p>18 Q. Okay. I'll stop you there.</p> <p>19 A. Okay.</p> <p>20 Q. Do you know the next section, Section B --</p> <p>21 A. B, uh-huh.</p> <p>22 Q. -- as a general matter, does that permit a</p> <p>23 voter to also show two forms of non-photo ID?</p> <p>24 A. "The following documentation is acceptable as</p> <p>25 proof of identification under this chapter. 1, a copy</p>

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1 of a current utility bill, bank statement, government  
 2 check, paycheck, or other government document that  
 3 shows the name and address of voter; and, 2, official  
 4 mail addressed to the person by name from a  
 5 governmental entity" (as read).  
 6 Q. I think the reason I stopped you is I know  
 7 there's -- I don't want to make you read pages and  
 8 pages --  
 9 A. Right.  
 10 Q. -- and I know there's a number of others.  
 11 A. Right.  
 12 Q. But as a general matter, does it look like it  
 13 also permits a voter to show two forms of what is  
 14 generally non-photo ID? And you can review the  
 15 different types of ID on that page in order to -- to  
 16 vote.  
 17 A. It appears to do so.  
 18 Q. What was the purpose of H.B. 1706?  
 19 MR. BRISSENDEN: I'm going to instruct  
 20 you that to the extent that you have knowledge about  
 21 the general purpose of H.B. 1706 as a general matter,  
 22 you may answer.  
 23 THE WITNESS: I'll follow the  
 24 instruction.  
 25 Q. (BY MS. BERKOWER) You don't know what the

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1 general purpose of H.B. 1706 was?  
 2 A. Well, it was to provide greater integrity and  
 3 confidence in the election process.  
 4 Q. How did it do that?  
 5 MR. BRISSENDEN: Objection, privileged.  
 6 Instruct the witness not to disclose his mental  
 7 impressions, thoughts, analysis about the bill and  
 8 instruct you not to answer the question.  
 9 Q. (BY MS. BERKOWER) Do you know of any  
 10 communication concerns -- excuse me. I'll start over.  
 11 Do you know of any communications  
 12 concerning the forms of allowable identification to be  
 13 included in H.B. 1706?  
 14 A. I do not.  
 15 Q. Do you know who drafted the bill?  
 16 A. I would have to assume legislative council,  
 17 but I don't know that factually.  
 18 Q. Do you know what -- sorry.  
 19 A. That's okay.  
 20 Q. Were you present during any of the legislative  
 21 public debates on H.B. 1706?  
 22 A. I assume I was on the House floor when we  
 23 debated the bill.  
 24 Q. Do you remember the justifications for  
 25 H.B. 1706 as expressed by supporters during the public

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1 debate?  
 2 A. I do not.  
 3 Q. Are you familiar with any of the legislators  
 4 who opposed H.B. 1706 during the public debate?  
 5 A. I don't recall.  
 6 Q. Do you know of any action taken by any  
 7 legislator to address concerns raised by opponents of  
 8 H.B. 1706 as would be contained in the public record?  
 9 A. I don't recall.  
 10 Q. Any amendments that might have addressed the  
 11 concerns of opponents of the bill?  
 12 A. I don't recall the specifics of the bill or  
 13 amendments to the bill.  
 14 Q. Do you remember if any amendments that would  
 15 have addressed concerns raised by the opponents of 1706  
 16 were ultimately included in the bill?  
 17 MR. BRISSENDEN: Objection, vague.  
 18 THE WITNESS: I just don't recall. I  
 19 don't know. The record would indicate that one way or  
 20 the other.  
 21 Q. (BY MS. BERKOWER) Was H.B. 1706 designed in  
 22 part to prevent noncitizens from voting?  
 23 MR. BRISSENDEN: Objection, privilege.  
 24 Instruct the witness not to disclose mental  
 25 impressions, thoughts, opinions, mental analysis

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1 regarding this. Instruct you not to answer.  
 2 THE WITNESS: I'll follow the  
 3 instruction.  
 4 Q. (BY MS. BERKOWER) Was part of the legislative  
 5 purpose to prevent noncitizens from voting?  
 6 MR. BRISSENDEN: Same instruction.  
 7 THE WITNESS: I'll follow the  
 8 instruction.  
 9 Q. (BY MS. BERKOWER) Do supporters of H.B. 1706  
 10 including legislators, publicly indicate that the bill  
 11 is designed to prevent noncitizens from voting?  
 12 MR. BRISSENDEN: You can answer to the  
 13 extent that is part of the public record.  
 14 THE WITNESS: I don't know. I would hope  
 15 not.  
 16 Q. (BY MS. BERKOWER) Why would you hope not?  
 17 A. That would not be appropriate.  
 18 Q. Why not?  
 19 A. Because that's not the intent.  
 20 Q. Are you aware of any private communications  
 21 where legislators indicated that H.B. 1706 was designed  
 22 to keep noncitizens from voting?  
 23 MR. BRISSENDEN: Again, instruct the  
 24 witness not to answer if it discloses thoughts, mental  
 25 impressions, or opinions of conversations.

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1 the Senate?

2 A. It appears to be fair to say that.

3 Q. Are you familiar with the voter ID bill that

4 was introduced in the House in 2007?

5 A. I'm sure there was one, but specifically, no,

6 I'm not.

7 Q. I have what will be -- what was previously

8 marked as Exhibit 28 in a different deposition.

9 MR. BRISSENDEN: Did you say 28?

10 MS. BERKOWER: Yes.

11 THE WITNESS: This is from when, '7?

12 Q. (BY MS. BERKOWER) Yes. Are you familiar with

13 this document?

14 A. In a general, vague sense, yes.

15 Q. What is it?

16 A. Is it House Bill 218 by Representative

17 Betty Brown of Kaufman County and others.

18 Q. Are you familiar with the basic provisions of

19 the bill?

20 A. No.

21 Q. Did you play any role in development of

22 H.B. 218?

23 A. I did not.

24 Q. Turning to Page 9, can you -- can you list

25 every form of identification that is acceptable for

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1 proof of identification under H.B. 218?

2 A. Certainly. "The following documentation is an

3 acceptable form of photo identification under this

4 chapter." The chapter is Section 11, Section 63.0101.

5 "No. 1, a driver's license or personal

6 identification card issued to the person by the

7 Department of Public Safety that is not expired or that

8 expired no later than two years before the date of

9 presentation; No. 2, a United States Military

10 identification card that contains the person's

11 photograph; No. 3, a valid employee identification card

12 that contains the person's photograph and is issued by

13 an employer of the person in the ordinary course of the

14 employer's business; No. 4, a United States citizenship

15 certificate issued by the person that contains the

16 person's photograph; 5, a United States passport issued

17 to the person; No. 6, a student identification card

18 issued by a public or private institution of higher

19 education located in the United States that contains

20 the person's photograph; No. 7, a license to carry a

21 concealed handgun issued to the person by the

22 Department of Public Safety; or, No. 8, a valid

23 identification card that contains the person's

24 photograph and is issued by, A, an agency or

25 institution of the Federal Government or, B, an agency,

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1 institution or political subdivision of this state" (as

2 read).

3 Q. And Section B, which begins where you left

4 off, does that provide additional documentation that's

5 acceptable as proof of identification?

6 A. It does appear to do so.

7 Q. And just taking -- if you can just quickly

8 review those yourself, do each of those forms of

9 identification require a photo identification?

10 MR. BRISSENDEN: Take your time.

11 THE WITNESS: Can you repeat the

12 question?

13 Q. (BY MS. BERKOWER) Well, that section,

14 Section B, does that list additional documentation

15 that's acceptable as proof of identification under this

16 bill?

17 A. It appears it does, yes.

18 Q. And do all of the forms of identification

19 listed in that section, are those all photo

20 identifications?

21 A. Not all of them, no.

22 Q. In fact, doesn't that include a library card

23 that contains the person's name under Item 10 on

24 Page 11?

25 A. A library card that contains a person's name

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1 issued to the person by a public library located in the

2 state.

3 Q. Does it specify that that must be a photo

4 identification?

5 A. It doesn't speak to that.

6 Q. And Item 11, a hunting or fishing license

7 issued to the person by the Parks and Wildlife

8 Department, that doesn't have to be a photo

9 identification either, does it?

10 MR. BRISSENDEN: If you know.

11 Q. (BY MS. BERKOWER) Well, based on the language

12 in the bill, is what I'm asking.

13 A. I don't think so, but you have to show an ID

14 to receive a hunting or fishing license.

15 Q. This bill does not specify that that license

16 has to contain a photograph; is that correct?

17 A. I believe it is.

18 Q. Item 9 says, "A pilot's license issued to the

19 person by the Federal Aviation Administration or other

20 authorized agency of the United States" (as read).

21 Does that section require the license to

22 be a photo ID?

23 A. I don't know what a pilot's license looks

24 like.

25 Q. Well, does the bill say it has to have a

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1 photograph?

2 MR. BRISSENDEN: Objection to the extent

3 it mischaracterizes the language.

4 Q. (BY MS. BERKOWER) I'm asking if this section

5 says the pilot's license has to have a photograph on

6 it.

7 MR. BRISSENDEN: Same objection.

8 Q. (BY MS. BERKOWER) You can still answer.

9 MR. BRISSENDEN: If you know.

10 THE WITNESS: I don't know.

11 Q. (BY MS. BERKOWER) Okay. Well, turning back

12 to Part A on Page 9, it says, "The following

13 documentation is an acceptable form of photo

14 identification under this chapter" (as read).

15 Did I read that correctly?

16 A. You did.

17 Q. And then Part B says, "The following" -- on

18 Page 10 -- sorry -- Line 20, "The following

19 documentation is acceptable as proof of identification

20 under this chapter" (as read).

21 Did I read that correctly?

22 A. You did.

23 Q. Does Part B require it to be photo

24 identification?

25 MR. BRISSENDEN: Same objection. If you

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1 know.

2 THE WITNESS: It simply requires it to be

3 identification.

4 Q. (BY MS. BERKOWER) It doesn't specify photo

5 identification?

6 A. It doesn't say it is or it isn't.

7 Q. So it may be, but it doesn't have to be?

8 A. Correct. And I simply answered I don't know

9 whether the pilot license has a photo ID or not.

10 Q. Okay. So all of the identifications specified

11 in Part B may or may not have photographs? It's not

12 required?

13 A. Correct.

14 Q. What was the purpose of H.B. 218?

15 MR. BRISSENDEN: Again, I'll instruct you

16 in terms of answering the question, to the extent that

17 you know what the general purpose of HB 218 is, you may

18 answer the question.

19 THE WITNESS: It's to provide confidence

20 and trust in the election process.

21 Q. (BY MS. BERKOWER) Was there any other purpose

22 for H.B. 218?

23 MR. BRISSENDEN: Same instruction.

24 THE WITNESS: I'll follow the

25 instruction.

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1 Q. (BY MS. BERKOWER) You'll follow the

2 instruction, meaning -- I'm a little confused.

3 MR. BRISSENDEN: To the extent that he

4 has information or knowledge about House Bill 218 in

5 terms of purpose that is a part of his thoughts,

6 opinions, mental impressions, analysis, I instruct the

7 witness not to disclose that information. But in terms

8 of what the general purpose of the bill is, he has

9 answered that.

10 MS. BERKOWER: Well, I said is there more

11 than one purpose to H.B. 218, and then he --

12 MR. BRISSENDEN: I don't believe that was

13 the question.

14 MS. BERKOWER: Can you read back the

15 question, please?

16 (The requested portion was read)

17 MR. BRISSENDEN: Same instruction.

18 THE WITNESS: I'll follow the

19 instruction.

20 Q. (BY MS. BERKOWER) Okay. Are you aware of any

21 communications where the forms of allowable

22 identification under H.B. 218 were discussed?

23 A. Well, I'm sure they were discussed on the

24 House floor in the public record.

25 Q. Are you aware of any nonpublic communications

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1 where the forms of allowable identification under

2 H.B. 218 were discussed?

3 MR. BRISSENDEN: Objection. I also

4 instruct you not to answer.

5 MS. BERKOWER: Well, I didn't ask what

6 was -- I didn't ask the nature of the discussions. I

7 just asked the general topic. That's a foundational

8 question that we've been permitted to answer in prior

9 depositions under the court's May 17th order.

10 MR. BRISSENDEN: I believe that you asked

11 about the substance of the communications as opposed to

12 simply asking him about communications regarding House

13 Bill No. 218.

14 MS. BERKOWER: I said are you aware of

15 communications where the forms of allowable

16 identification were discussed.

17 MR. BRISSENDEN: That's right.

18 MS. BERKOWER: That's a privileged law

19 question?

20 MR. BRISSENDEN: If the question is

21 regarding communications regarding House Bill No. 218,

22 I'll allow that. But in terms of the substance of the

23 communications, I believe your question delves into

24 more substance about the communications regarding House

25 Bill No. 218. Instruct the witness not to answer.

<p style="text-align: center;">101</p> <p>1 MS. BERKOWER: For the record, we view</p> <p>2 this as a basic foundational question of the type that</p> <p>3 would be permitted or even required under the federal</p> <p>4 rules of the privilege log, and we ask the State to</p> <p>5 withdraw their objection.</p> <p>6 Will you withdraw it?</p> <p>7 MR. BRISENDEN: At this time, I'm</p> <p>8 standing on my objection.</p> <p>9 Q. (BY MS. BERKOWER) Will you answer the</p> <p>10 question?</p> <p>11 A. I'll follow his recommendation.</p> <p>12 Q. Are you aware of any communications concerning</p> <p>13 H.B. 218?</p> <p>14 A. No.</p> <p>15 Q. Public or private?</p> <p>16 A. Well, obviously, I'm aware of public</p> <p>17 discussion, as I was a member of the Legislature when</p> <p>18 it was debated on the House floor. But privately, no,</p> <p>19 I'm not.</p> <p>20 Q. Are you -- were you aware of any concerns</p> <p>21 raised on the public record during the development,</p> <p>22 drafting, or considering of H.B. 218 about the impact</p> <p>23 of H.B. 218 on minority voters?</p> <p>24 A. I was not involved in that.</p> <p>25 Q. Were you involved in the public debate on</p>	<p style="text-align: center;">103</p> <p>1 other legislators on the public record?</p> <p>2 MR. BRISENDEN: And, again, your</p> <p>3 question is --</p> <p>4 MS. BERKOWER: On the public record.</p> <p>5 MR. BRISENDEN: -- your question is</p> <p>6 limited to the public record?</p> <p>7 THE WITNESS: Certainly in debate on the</p> <p>8 floor there were those who were for and against the</p> <p>9 bill.</p> <p>10 Q. (BY MS. BERKOWER) Do you remember what the</p> <p>11 supporters of H.B. 218 on the floor were saying in</p> <p>12 support of the bill?</p> <p>13 A. No.</p> <p>14 Q. Do you remember what the concerns of opponents</p> <p>15 to the bill were as expressed in the public record?</p> <p>16 A. I don't, but we can check the record.</p> <p>17 Q. Are you aware of the existence of any analysis</p> <p>18 or report as entered into the public record that would</p> <p>19 raise any concerns that the bill would have an adverse</p> <p>20 impact on minority voters?</p> <p>21 MR. BRISENDEN: Again, your answer is</p> <p>22 limited to what's in the public record.</p> <p>23 MS. BERKOWER: That's all I asked him</p> <p>24 about.</p> <p>25 THE WITNESS: I don't know.</p>
<p style="text-align: center;">102</p> <p>1 H.B. 218?</p> <p>2 A. What does "involved" mean?</p> <p>3 Q. Well, were you present, do you remember?</p> <p>4 A. I'm certain I was present. But, respectfully,</p> <p>5 "involved" would more so mean that I was a part of the</p> <p>6 debate. And I don't think I -- I don't know</p> <p>7 absolutely, but I -- if I participated at all, it was</p> <p>8 extraordinarily limited.</p> <p>9 Q. Okay.</p> <p>10 A. But I was present, to answer that, yes.</p> <p>11 Q. Do you remember the public debate at all for</p> <p>12 H.B. 218?</p> <p>13 A. Not specifically, no.</p> <p>14 Q. What, if anything, do you remember about the</p> <p>15 public debate of H.B. 218?</p> <p>16 A. Pretty much nothing.</p> <p>17 Q. Did you have any role in HB 218 after it was</p> <p>18 filed in the House?</p> <p>19 A. None that I recall.</p> <p>20 Q. During the time that the House considered</p> <p>21 H.B. 218, did you learn of any concerns raised about</p> <p>22 the bill by constituents or interest groups?</p> <p>23 A. Not that I recall.</p> <p>24 Q. During the time the House considered H.B. 218,</p> <p>25 did you learn of any concerns raised about the bill by</p>	<p style="text-align: center;">104</p> <p>1 Q. (BY MS. BERKOWER) H.B. 218 permits a voter to</p> <p>2 show a driver's license in order to vote. Is that</p> <p>3 correct based on what we just reviewed in this on</p> <p>4 Page 9?</p> <p>5 A. That would be Line 17 on Page 9, yes. A</p> <p>6 driver's license or personal identification card that</p> <p>7 has not expired or that expired no later than two years</p> <p>8 before the date of the presentation.</p> <p>9 Q. Didn't supporters of H.B. 218, including</p> <p>10 legislators, publicly indicate that the bill was</p> <p>11 designed to keep noncitizens from voting?</p> <p>12 MR. BRISENDEN: Again, the question is</p> <p>13 limited to what's in the public record.</p> <p>14 THE WITNESS: I'm unaware of that.</p> <p>15 Q. (BY MS. BERKOWER) Were you present on the</p> <p>16 floor during the house debate of 218?</p> <p>17 A. We've covered that. Yes.</p> <p>18 Q. Did Representative Betty Brown state on the</p> <p>19 House floor that the bill was, quote, "designed to keep</p> <p>20 illegal aliens, noncitizens, and other people otherwise</p> <p>21 not qualified from voting"?</p> <p>22 MR. BRISENDEN: To the extent that the</p> <p>23 question mischaracterizes the statement on the record,</p> <p>24 I would object to the question.</p> <p>25 THE WITNESS: I don't know.</p>

<p style="text-align: center;">105</p> <p>1 Q. (BY MS. BERKOWER) Do you remember her saying</p> <p>2 that?</p> <p>3 A. I don't.</p> <p>4 Q. Did Ms. Brown write this bill?</p> <p>5 A. She was -- I'm not suggesting she didn't. I'm</p> <p>6 telling you I don't recall that she did. I didn't hang</p> <p>7 on every word that day. I barely remember it.</p> <p>8 Q. But answer in answer to the question, she did</p> <p>9 write the bill, correct?</p> <p>10 A. Yes, that certainly appears to be the case. I</p> <p>11 doubt she actually wrote it, but she was the sponsor</p> <p>12 who carried it.</p> <p>13 Q. Okay. Can noncitizens obtain a Texas driver's</p> <p>14 license?</p> <p>15 A. I don't know.</p> <p>16 Q. If they can, how would H.B. 218 have been</p> <p>17 designed to keep illegal aliens and noncitizens from</p> <p>18 voting?</p> <p>19 MR. BRISSENDEN: Objection, calls for</p> <p>20 speculation. Instruct the witness not to disclose</p> <p>21 mental impressions, thoughts, analysis about the</p> <p>22 legislation. Instruct not to answer.</p> <p>23 THE WITNESS: I'll follow the</p> <p>24 instruction.</p> <p>25 MS. BERKOWER: Well, I don't think that</p>	<p style="text-align: center;">107</p> <p>1 A. I don't know.</p> <p>2 Q. Sitting here today, would you agree that if</p> <p>3 the prevention of noncitizens voting was a purpose of</p> <p>4 H.B. 218, H.B. 218 would not actually serve that</p> <p>5 purpose?</p> <p>6 MR. BRISSENDEN: First of all, I object</p> <p>7 that it's a hypothetical and calls for speculation.</p> <p>8 Also, the question is requiring the witness to disclose</p> <p>9 his thoughts and mental impressions and analysis of the</p> <p>10 specific legislation. I instruct you not to answer.</p> <p>11 MS. BERKOWER: Well, I didn't ask him</p> <p>12 with regard to a legislative act that would have taken</p> <p>13 place at the time. I'm asking him, sitting here today,</p> <p>14 looking at the bill's terms, would this prevent</p> <p>15 noncitizens from voting. I'm not asking him to draw on</p> <p>16 anything that he learned as a legislator, nor am I</p> <p>17 asking him to draw on any considerations he took into</p> <p>18 account in voting for the bill. I'm just asking him</p> <p>19 simply sitting here today, would this bill, if enacted,</p> <p>20 prevent noncitizens from voting.</p> <p>21 MR. BRISSENDEN: And my objection is the</p> <p>22 same and my instruction is the same.</p> <p>23 Q. (BY MS. BERKOWER) Are you following that</p> <p>24 instruction?</p> <p>25 A. I'll follow the instruction, yes, ma'am.</p>
<p style="text-align: center;">106</p> <p>1 that question necessarily asks him for privileged</p> <p>2 information. This is just based on, like I said, a</p> <p>3 hypothetical if a noncitizen could get a driver's</p> <p>4 license and H.B. 218 permits a voter to show a driver's</p> <p>5 license to vote.</p> <p>6 MR. BRISSENDEN: It is a hypothetical.</p> <p>7 MS. BERKOWER: How would that prevent the</p> <p>8 noncitizens from voting?</p> <p>9 MR. BRISSENDEN: It is a hypothetical and</p> <p>10 you're specifically asking him for his mental</p> <p>11 impressions, thoughts, opinions about a specific piece</p> <p>12 of legislation that would be privileged. I instruct</p> <p>13 him not to answer.</p> <p>14 Q. (BY MS. BERKOWER) Are you following that</p> <p>15 instruction?</p> <p>16 A. Yes, ma'am, I am.</p> <p>17 Q. Can a noncitizen in Texas contain a concealed</p> <p>18 handgun license?</p> <p>19 A. I don't know.</p> <p>20 Q. Can a noncitizen in Texas obtain a military</p> <p>21 ID, US military ID?</p> <p>22 A. I would assume only military personnel can</p> <p>23 obtain an ID.</p> <p>24 Q. Do you know if there are any noncitizens who</p> <p>25 are military personnel?</p>	<p style="text-align: center;">108</p> <p>1 Q. Do you know if members of the public or</p> <p>2 interest groups opposed H.B. 218?</p> <p>3 A. I'm sure somebody did.</p> <p>4 Q. Do you remember who that was?</p> <p>5 A. Not at all.</p> <p>6 Q. Do you remember what their concerns were?</p> <p>7 A. I do not.</p> <p>8 Q. Do you know if any legislators opposed</p> <p>9 H.B. 218 in the public record?</p> <p>10 A. I believe -- I'm sure the public record would</p> <p>11 indicate that, yes.</p> <p>12 Q. Do you remember who they were or what their</p> <p>13 concerns were?</p> <p>14 A. I do not.</p> <p>15 Q. Do you know of any action taken as part of the</p> <p>16 public record by any legislator in 2007 to address</p> <p>17 concerns raised by the opponents of H.B. 218?</p> <p>18 A. Personally, I do not know.</p> <p>19 Q. Are you aware of any analysis conducted by</p> <p>20 anyone unrelated to H.B. 218 that was made part of the</p> <p>21 public record?</p> <p>22 A. I'm not aware. I'm sure someone did.</p> <p>23 Q. Are you aware of any analysis generally</p> <p>24 conducted by anyone related to H.B. 218, public or</p> <p>25 private?</p>

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1 A. I am not, publicly speaking.  
 2 MR. BRISSENDEN: To the extent that the  
 3 question requires you to disclose information that is  
 4 private, not part of the public record, I instruct you  
 5 not to answer.  
 6 MS. BERKOWER: You would object to the  
 7 question of any analysis conducted by anyone related to  
 8 the bill?  
 9 MR. BRISSENDEN: That is not part of the  
 10 public record. That is part of his work and analysis  
 11 in relation to the bill, yes.  
 12 MS. BERKOWER: I didn't ask what the  
 13 analysis was. I asked if he was aware -- just aware of  
 14 any analysis. Not how he considered it, not how it  
 15 factored into his deliberations; just if he was aware  
 16 of any analysis related to the bill as conducted at  
 17 all.  
 18 MR. BRISSENDEN: Same instruction.  
 19 MS. BERKOWER: You also did not object to  
 20 that question earlier in this deposition.  
 21 MR. BRISSENDEN: To the extent that you  
 22 have knowledge based upon information that is contained  
 23 in the public record, you may answer the question.  
 24 THE WITNESS: I'm -- I don't recall.  
 25 Q. (BY MS. BERKOWER) Are you aware of any

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1 studies about the number of registered voters without  
 2 allowable forms of ID under H.B. 218 that were entered  
 3 into the public record?  
 4 A. I don't remember.  
 5 Q. Are you aware of any attempt by any legislator  
 6 in 2007 to determine who among registered voters did  
 7 not possess the forms of identification required by  
 8 H.B. 218 that were discussed in the public record?  
 9 A. I do not remember.  
 10 Q. Are you aware of any attempt to determine the  
 11 impact of H.B. 218 on minority voters that was included  
 12 in the public record?  
 13 A. I'm not aware, no.  
 14 Q. Did the House pass H.B. 218?  
 15 A. I don't remember.  
 16 Q. Are you aware of a photographic -- excuse me,  
 17 Are you aware of a photographic voter  
 18 identification bill that was introduced in the  
 19 81st Legislature in 2009?  
 20 A. There were several filed.  
 21 Q. Are you aware of any?  
 22 A. I'm aware that several were filed, yes.  
 23 Q. You're aware of a few?  
 24 A. Uh-huh.  
 25 Q. Were you a member of the House Elections

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1 Committee that session?  
 2 A. This would be the '09 session?  
 3 Q. Yes.  
 4 A. Yes, I was.  
 5 Q. Do you remember S.B. 362's introduction into  
 6 the house?  
 7 A. Vaguely.  
 8 Q. Since you were a member of the House Elections  
 9 Committee, did you have any role in the development of  
 10 S.B. 362?  
 11 A. I probably did.  
 12 Q. Do you remember?  
 13 A. I don't recall. Not really.  
 14 Q. What was your involvement with the bill once  
 15 it was sent to the House?  
 16 A. Which bill?  
 17 Q. Sorry. S.B. 362.  
 18 A. I don't know. I don't know which one 362 is.  
 19 There were -- I may have filed my own bill that  
 20 session. So specifically speaking, I don't know which  
 21 one 362 is. Not to be difficult, but we -- we really  
 22 don't -- at least I don't, and many members don't,  
 23 recall bills by bill number. And so --  
 24 Q. How do you recall them?  
 25 A. By bill on voter ID. Or Betty Brown had a

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1 bill on voter ID, or what have you.  
 2 Q. What if I told you --  
 3 MR. BRISSENDEN: I was just going to say  
 4 it's now 1:00, and we haven't taken a break for lunch.  
 5 Whenever you get to a good time to break, maybe we can  
 6 take a break and get some food.  
 7 MS. BERKOWER: We can take a break now.  
 8 How long do you want to take a break for?  
 9 THE WITNESS: We can go ahead and finish  
 10 this.  
 11 MR. BRISSENDEN: Are you at a good  
 12 breaking point? How long would you like to take a  
 13 break for?  
 14 MS. BERKOWER: I think 40 minutes is what  
 15 it takes. I guess we'll be back at 1:35.  
 16 (Recess from 12:53 p.m. to 1:57 p.m.)  
 17 Q. (BY MS. BERKOWER) I don't remember exactly  
 18 where we left off. If I repeat a question or two, I'm  
 19 sorry.  
 20 A. No problem.  
 21 Q. So we were talking about the 81st Legislature  
 22 in 2009.  
 23 A. Yes.  
 24 Q. Are you aware that photo -- photographic voter  
 25 identification bills were introduced in that session?

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- 1 A. Yes.
- 2 Q. Do you remember in particular S.B. 362?
- 3 A. Not specifically, but generally I'm sure it
- 4 existed.
- 5 Q. Were you a member of the House Elections
- 6 Committee that year?
- 7 A. In '09 I was, yes.
- 8 Q. And did you have any role in the development
- 9 of S.B. 62 due to your position on that committee?
- 10 A. No, not if it was a senate bill I would not
- 11 have.
- 12 Q. Once the bill was sent to the House, what was
- 13 your involvement given that you were on the elections
- 14 committee?
- 15 A. Simply to -- I'm assuming that the committee
- 16 heard the bill, and I simply would have been a member
- 17 of the committee while the bill was being heard for
- 18 public testimony and discussion.
- 19 Q. I have what's been -- I know this has been
- 20 previously marked, but I'm not sure what number it is.
- 21 So we'll just introduce it again. This is going to be
- 22 Exhibit 434.
- 23 (Exhibit No. 434 marked)
- 24 Q. (BY MS. BERKOWER) Do you know what this is?
- 25 A. Senate Bill No. 362 by Senator Frazier and

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- 1 others.
- 2 Q. Take a minute to review the document and let
- 3 me know when you're finished.
- 4 A. (Reading).
- 5 Okay.
- 6 Q. Do you remember this bill now that you've
- 7 taken a look at it?
- 8 A. Generally speaking, yes.
- 9 Q. Do you remember what forms of identification
- 10 were permitted under S.B. 362?
- 11 A. I would have to refer to the bill to be able
- 12 to do that.
- 13 Q. Okay. I think it starts on Page 5.
- 14 A. "The following identification is an acceptable
- 15 form of photo identification under this chapter, a
- 16 driver's license or personal identification card issued
- 17 to the person by the Department of Public Safety that
- 18 is not expired or that expired no earlier than two
- 19 years before the date of presentation" (as read).
- 20 Q. Okay. I'll just ask you questions. You don't
- 21 have to read out loud every single --
- 22 A. Okay.
- 23 Q. So does it permit a Texas driver's license?
- 24 That's on Page 5.
- 25 A. Yeah, Page 5. On Page 5, Lines 22, 23, and 24

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- 1 it does permit a Texas Department of Public Safety
- 2 issued license.
- 3 Q. And a qualifying on that was it must have
- 4 expired no earlier than two years before the date of
- 5 the presentation?
- 6 A. Correct.
- 7 Q. Does the bill permit identification issued by
- 8 an agency or institution of the Federal Government?
- 9 And I'll direct your attention to Page 6.
- 10 A. Yes. If an agency or institution of the
- 11 Federal Government or an agency or institution of a
- 12 political subdivision of this state, on Page 8 -- on
- 13 Line 18 and 19 on Page 6.
- 14 Q. The part of the bill that -- that permits an
- 15 identification from an agency institution or political
- 16 subdivision of the state, would that include state
- 17 institution of higher education, like student IDs?
- 18 A. I -- I do not know what the -- what that would
- 19 have included. I don't know. It certainly could have.
- 20 I do not know for certain.
- 21 Q. Are the state universities of Texas an
- 22 institution of the state?
- 23 A. State -- state-funded ones, yes, I guess they
- 24 would be considered that.
- 25 Q. Does the bill permit employee identification

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- 1 to be used?
- 2 A. Let's see.
- 3 Q. I guess I can make that question more
- 4 specific. Does that -- does the bill permit employee
- 5 identification to be used if it's issued by an agency
- 6 or institution of the Federal Government or an agency,
- 7 institution or political subdivision of Texas?
- 8 MR. BRISSENDEN: Objection, compound.
- 9 Q. (BY MS. BERKOWER) Did you understand the
- 10 question?
- 11 A. Could you repeat it?
- 12 Q. Sure. I can break it down. On Page 6,
- 13 Line 16 --
- 14 A. Okay.
- 15 Q. -- the bill permits a valid identification
- 16 card that contains the person's photograph and is
- 17 issued by -- and then it says --
- 18 A. Federal Government.
- 19 Q. -- Federal Government agency or an agency,
- 20 institution, or political subdivision of this state.
- 21 Does that -- does that mean that employee
- 22 identification issued by those authorities containing
- 23 the person's photograph would be permitted?
- 24 A. I guess logically that would follow, yes.
- 25 Q. And then at Line 22 there's another set of

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1 documentation that's acceptable as proof of  
 2 identification, and that goes on Page 6 and 7, and  
 3 those are non- -- those forms of identification do not  
 4 have to be photographic identification; is that  
 5 correct?  
 6 A. Let me review them. Many of them appear not  
 7 to require a photo or have a photo.  
 8 Q. And I know you've taken a break now, but if  
 9 you can remember back to H.B. 218.  
 10 A. Okay.  
 11 Q. And you can take a look to review if you'd  
 12 like. Does it appear that for the most part S.B. 362  
 13 and H.B. 218 require the same identification to vote?  
 14 A. No, not really. If you look at Page 10 of  
 15 H.B. 218 under Section B, No. 1 is a copy of a current  
 16 utility bill, bank statement, government check,  
 17 paycheck, or other relevant document that shows the  
 18 name and address of the voter, whereas No. 1 under  
 19 Senate Bill 362, Page 6 is a voter's voter registration  
 20 certificate. So that's the difference.  
 21 Q. Okay. But it does still permit a current  
 22 utility bill, paycheck, or government check -- paycheck  
 23 or other government document that shows the name and  
 24 address of the voter?  
 25 A. Correct, but they also have listed the voter's

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1 voter registration certificate, which is -- yes, which  
 2 is the difference there.  
 3 Q. Okay. So -- but -- so in 362 they added voter  
 4 register cards to --  
 5 A. It appears to, yes, yes.  
 6 Q. -- be one of the non-photo ID that was  
 7 permitted under that Section B; is that correct?  
 8 A. Yes, that seems to be the case.  
 9 Q. Are there other significant differences that  
 10 you know of?  
 11 MR. BRISSENDEN: Objection, form.  
 12 THE WITNESS: No, it appears to be very  
 13 similar.  
 14 Q. (BY MS. BERKOWER) And to be clear, both of --  
 15 both bills would permit a voter to present non-photo  
 16 identification under some circumstances to be allowed  
 17 to vote; is that correct?  
 18 A. It appears to be the case, yes.  
 19 Q. What were the purposes of -- sorry --  
 20 S.B. 362?  
 21 MR. BRISSENDEN: Again, I'm going to  
 22 instruct the witness that in terms of the question as  
 23 it is asking about the general purpose of the bill in  
 24 the legislation, you may answer.  
 25 THE WITNESS: Generally speaking, to

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1 ensure the integrity and confidence in the elections in  
 2 Texas.  
 3 Q. (BY MS. BERKOWER) Was there any evidence of  
 4 these problems in the public record?  
 5 A. I don't know.  
 6 Q. Did anyone explain how the terms of this bill  
 7 would solve any of the problems related to in-person  
 8 voter fraud in comparison to current -- current law on  
 9 the public record?  
 10 A. I do believe there was a discussion of that on  
 11 the House floor, but I don't know absolutely.  
 12 Q. Do you recall what the explanation was of how  
 13 the terms of this bill would solve any problems related  
 14 to in-person voter fraud as expressed on the public  
 15 record?  
 16 A. Specifically, I do not.  
 17 Q. Do you know how the terms of this bill would  
 18 solve any problems related to in-person voter fraud in  
 19 comparison to current law?  
 20 MR. BRISSENDEN: I would instruct the  
 21 witness that the question requires you to divulge your  
 22 thoughts, opinions, mental impressions, and analysis of  
 23 the legislation and I instruct you not to answer.  
 24 MS. BERKOWER: It's actually just a yes  
 25 or no question, do you know. I did not ask for the

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1 substance of what he knows.  
 2 MR. BRISSENDEN: If you're limited to  
 3 just whether he knows or not, I'll allow that.  
 4 THE WITNESS: Do you mind repeating the  
 5 question?  
 6 Q. (BY MS. BERKOWER) Sure. Do you know if the  
 7 terms of this bill would solve any problems related to  
 8 in-person voter fraud in comparison to current law?  
 9 A. Generally the belief is that it would improve  
 10 that situation.  
 11 Q. When you say "improve that situation," what  
 12 are you referring to?  
 13 MR. BRISSENDEN: Now I'm going to have to  
 14 instruct him --  
 15 MS. BERKOWER: Well, I just think the  
 16 answer is not clear. So --  
 17 MR. BRISSENDEN: Now you're asking him to  
 18 clarify and offer his opinion and explain his answer  
 19 beyond just providing an answer as to whether or not he  
 20 has knowledge or not. That delves into his mental  
 21 impressions and thoughts and opinions, and I instruct  
 22 you not to answer the question.  
 23 MS. BERKOWER: I understand. But I asked  
 24 a yes or no question and he didn't respond with a yes  
 25 or no answer. He responded with an answer that,

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1 frankly, was nonresponsive to a yes or no question, and  
 2 so I didn't understand what he meant. That's why I  
 3 asked for the clarification. If you'd rather, I can  
 4 re-ask the question if he can answer yes or no.  
 5 MR. BRISSENDEN: If he can answer the  
 6 question with a yes or no. It was a rather long  
 7 question that doesn't necessarily allow for a simple  
 8 yes or no answer without an explanation. And so with  
 9 that, I'm going to instruct him not to answer the  
 10 question.  
 11 MS. BERKOWER: Can I re-ask the question?  
 12 MR. BRISSENDEN: You can certainly  
 13 rephrase it, certainly.  
 14 Q. (BY MS. BERKOWER) Do you know if the terms of  
 15 this bill would solve any problems related to in-person  
 16 voter fraud?  
 17 MR. BRISSENDEN: And so the way that  
 18 question is phrased is do you know, yes or no? Do you  
 19 have that knowledge?  
 20 THE WITNESS: Being I'm not an expert, I  
 21 would say no.  
 22 Q. (BY MS. BERKOWER) Do you know if the terms of  
 23 this bill would solve problems with current law?  
 24 MR. BRISSENDEN: Again, the way the  
 25 question is phrased is do you know, yes or no.

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1 THE WITNESS: This bill being Senate  
 2 Bill 362 with current law being --  
 3 Q. (BY MS. BERKOWER) The current practice.  
 4 A. -- the current practice, do I know -- I  
 5 apologize. Do I know what now? Would it solve  
 6 problems?  
 7 Q. Do you know if the terms of 362 would solve  
 8 problems related to in-person fraud under current law?  
 9 MR. BRISSENDEN: Do you have that  
 10 knowledge?  
 11 THE WITNESS: No, I don't have that  
 12 knowledge. I'm not an expert.  
 13 Q. (BY MS. BERKOWER) Did you follow the bill at  
 14 all while it was in the Senate as part of your duties  
 15 on the election committee?  
 16 A. I did not, no.  
 17 Q. How does that work just as a general matter if  
 18 you're on a committee that has a parallel committee in  
 19 the Senate? Do you interact at all?  
 20 A. In a general matter, it -- it varies greatly.  
 21 I would suggest that more often than not you don't  
 22 particularly interact. I mean, obviously there might  
 23 be conversations where there's a significant  
 24 interaction or conversation. But, respectfully,  
 25 obviously, that can vary. But largely the House does

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1 kind of the House thing and the Senate does the Senate  
 2 thing and we don't have that much communication.  
 3 Q. What are the examples of committees that have  
 4 more interaction between House and Senate?  
 5 A. I don't think it's specific to a committee. I  
 6 think maybe it's more specific to members, if that  
 7 makes sense. There may be a specific time or instance  
 8 or member relationship where there may be more  
 9 interaction than otherwise.  
 10 Q. Are there any members that you interact with  
 11 regularly in the Senate?  
 12 A. Not to be difficult, obviously regularly is,  
 13 you know, definable. But I would -- I would deal more  
 14 with the state senators who have representation  
 15 overlapping with my House district, but generally  
 16 speaking, I don't have any significant interaction with  
 17 Senate members.  
 18 Q. Okay. Did you have communications with Senate  
 19 members concerning your duties on the elections  
 20 committee in 2009?  
 21 A. Not -- no, not really. And I want to be  
 22 respectful. I mean, I think Frazier -- did Senator  
 23 Frazier and I visit with each other during that  
 24 session, yes. Did we have visits about voter ID, no,  
 25 not really.

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1 Q. So the visits covered other topics?  
 2 A. Usually of no substance.  
 3 Q. Okay. In April 2009, did some House members  
 4 sign a pledge circulated by the Republican Party of  
 5 Texas concerning voter ID?  
 6 A. I believe you're correct, yes, I think so.  
 7 Q. Did you sign the pledge?  
 8 A. Not to be -- I don't remember. I think I  
 9 didn't, but I don't really recall. I'm sure you have  
 10 the records.  
 11 Q. I have what's going to be Exhibit 435.  
 12 A. Thank you.  
 13 (Exhibit No. 435 marked)  
 14 Q. (BY MS. BERKOWER) Take a minute to review it  
 15 and let me know when you're done.  
 16 A. (Reading).  
 17 Okay. I reviewed it.  
 18 Q. Can you describe generally what the pledge  
 19 required members to agree to?  
 20 A. On principles concerning what the bill must  
 21 contain are clear. This bill must ensure a valid photo  
 22 identification as needed to vote, take effect at the  
 23 next possible uniform election date, be free of any  
 24 restriction -- registration, I apologize, registration  
 25 requirement, such as same day voter registration that

<p style="text-align: center;">125</p> <p>1 dilutes the intent of the bill, which is ensuring fair</p> <p>2 and accurate election, and increase criminal penalties</p> <p>3 for voter fraud and registration. And then members</p> <p>4 signing their commitment to those principles as stated.</p> <p>5 Q. Are you on the list of members who signed the</p> <p>6 commitment?</p> <p>7 A. It appears I am not.</p> <p>8 Q. If you turn to Page 4 of the document, the</p> <p>9 last page.</p> <p>10 A. Yes, ma'am.</p> <p>11 Q. Do you see the first full paragraph, the last</p> <p>12 sentence says, "Representative Dennis Bonnen, as a</p> <p>13 member of the House Elections Committee, has issued a</p> <p>14 principle stating explaining his revision below" (as</p> <p>15 read).</p> <p>16 A. Yes.</p> <p>17 Q. On Tuesday -- and then it quotes you as</p> <p>18 saying, "On Tuesday, many Texas House Republican caucus</p> <p>19 members issued a statement calling for four principles</p> <p>20 to be included in the voter ID bill. While I choose to</p> <p>21 stand firmly behind these key elements, I choose not to</p> <p>22 add my name to the statement" (as read).</p> <p>23 Do you remember saying that?</p> <p>24 A. I do.</p> <p>25 Q. Did you, in fact, not choose to add your name</p>	<p style="text-align: center;">127</p> <p>1 witness and I'm not being examined here today. I will</p> <p>2 say to you that I'm standing by the objection and the</p> <p>3 instruction. Your question didn't talk about promises.</p> <p>4 It asked about why he chose not to add his name to the</p> <p>5 statement, and that asks for his mental impressions.</p> <p>6 I'm going to instructing the witness not to answer.</p> <p>7 Q. (BY MS. BERKOWER) Are you going to follow</p> <p>8 your counsel's instruction?</p> <p>9 A. Yes, ma'am.</p> <p>10 Q. Did you, in fact, make any promises to support</p> <p>11 a particular type of voter identification legislation?</p> <p>12 MR. BRISSENDEN: I'm again going to</p> <p>13 instruct the witness not to answer the question based</p> <p>14 upon legislative privilege.</p> <p>15 MS. BERKOWER: Can you explain your basis</p> <p>16 for that objection, given the relative set of authority</p> <p>17 on that point?</p> <p>18 MR. BRISSENDEN: I'm not going to be</p> <p>19 examined here today during the deposition, but I'm</p> <p>20 standing on the privilege, and based upon the court's</p> <p>21 orders of -- and as I understand them from yesterday,</p> <p>22 June 5th, May 17th, and May 21st.</p> <p>23 MS. BERKOWER: Can you point to any</p> <p>24 direct citation in any of those opinions just for my</p> <p>25 personal information that supports your objection on</p>
<p style="text-align: center;">126</p> <p>1 to the statement?</p> <p>2 A. That is correct.</p> <p>3 Q. Why didn't you add your name to the statement?</p> <p>4 MR. BRISSENDEN: I'm going to instruct</p> <p>5 the witness at this time not to disclose, in response</p> <p>6 to the question, information with thoughts and mental</p> <p>7 impressions, analysis regarding the voter ID bill and</p> <p>8 in connection with your query. I instruct you not to</p> <p>9 answer.</p> <p>10 MS. BERKOWER: Well, we view promises --</p> <p>11 I think it's actually pretty well settled that promises</p> <p>12 concerning support of legislation, agreeing to</p> <p>13 introduce legislation are actually not privileged under</p> <p>14 the Supreme Court case of United States versus Saltsky</p> <p>15 [phonetic] --</p> <p>16 THE REPORTER: Saltsky?</p> <p>17 MS. BERKOWER: I will get the name for</p> <p>18 you in a second.</p> <p>19 And that's why usually that question is</p> <p>20 proper. Are you willing to withdraw your objection on</p> <p>21 that basis?</p> <p>22 MR. BRISSENDEN: No, I'm not.</p> <p>23 MS. BERKOWER: Are you aware of that</p> <p>24 Supreme Court case?</p> <p>25 MR. BRISSENDEN: I'm not -- I'm not the</p>	<p style="text-align: center;">128</p> <p>1 this point?</p> <p>2 MR. BRISSENDEN: I have stated my</p> <p>3 objection.</p> <p>4 Q. (BY MS. BERKOWER) Okay. Are you going to</p> <p>5 answer the question?</p> <p>6 A. No, ma'am.</p> <p>7 Q. I think, then, the quotation -- the pledge</p> <p>8 continues to quote you after that paragraph.</p> <p>9 A. Well --</p> <p>10 Q. Sorry.</p> <p>11 A. This isn't a pledge. It's simply a statement.</p> <p>12 Q. Sorry. The pledge ends with the end of the --</p> <p>13 you're right. Well, this -- this article or</p> <p>14 communication, whatever it is, from the Republican</p> <p>15 Party of Texas --</p> <p>16 MR. BRISSENDEN: For the record, it's a</p> <p>17 press release dated Wednesday, April 29th, 2009.</p> <p>18 Q. (BY MS. BERKOWER) Okay. So this press</p> <p>19 release quotes you; is that a fair statement?</p> <p>20 A. That is -- that is a fair statement.</p> <p>21 Q. And it continues to quote you saying, "As a</p> <p>22 member of the election committee, my focus remains to</p> <p>23 advance this bill to the House floor. I will not sign</p> <p>24 a commitment that threatens to kill the bill by</p> <p>25 preventing it from being voted out of committee and</p>

<p style="text-align: center;">133</p> <p>1 A. Lines 18 through 20 on Page 6 say that, yes.</p> <p>2 Q. And the next section says, "Official mail</p> <p>3 addressed to the person by name of a governmental</p> <p>4 entity"?</p> <p>5 A. Correct.</p> <p>6 Q. The next section says, "A certified copy of a</p> <p>7 birth certificate or other document confirming birth</p> <p>8 that is admissible in a court of law and establish the</p> <p>9 person's identity" (as read). Yes?</p> <p>10 A. Correct.</p> <p>11 Q. The next section permits citizenship papers;</p> <p>12 is that correct?</p> <p>13 A. Yes, issued to that person, correct.</p> <p>14 Q. The next section permits an original or</p> <p>15 certified copy of the person's marriage license or</p> <p>16 divorce decree; is that correct?</p> <p>17 A. That is correct.</p> <p>18 Q. The next section permits court records that</p> <p>19 the person's adoption, name change, or sex change; is</p> <p>20 that correct?</p> <p>21 A. That is correct.</p> <p>22 Q. And then the next section permits an</p> <p>23 identification card issued to the person by a</p> <p>24 governmental entity of this state or the United States</p> <p>25 for the purposes of obtaining public benefits,</p>	<p style="text-align: center;">135</p> <p>1 proof -- proof of identification; is that correct?</p> <p>2 A. Can you repeat -- say that again?</p> <p>3 Q. This section of the bill, which starts on</p> <p>4 Line 16 of Page 5 --</p> <p>5 A. Page 6.</p> <p>6 Q. Sorry, Page 6, yes, right -- permits 11</p> <p>7 categories of non-photo ID that would be acceptable as</p> <p>8 proof of identification for voting?</p> <p>9 A. Yes, that's correct.</p> <p>10 MR. BRISSENDEN: Objection to the extent</p> <p>11 the question mischaracterizes the bill -- the language</p> <p>12 in the bill.</p> <p>13 Q. (BY MS. BERKOWER) You may answer. Does it</p> <p>14 in fact, do that?</p> <p>15 A. I guess it does.</p> <p>16 Q. Now, turning back to the press release we were</p> <p>17 just looking at on the last page, when you said this</p> <p>18 was an accurate quotation of you --</p> <p>19 A. Uh-huh.</p> <p>20 Q. -- you said, "One can simply look at the voter</p> <p>21 ID bill that I filed, H.B. 3556, to see where I stand</p> <p>22 on the issues" (as read).</p> <p>23 A. Yes.</p> <p>24 Q. Do you see that?</p> <p>25 A. I do.</p>
<p style="text-align: center;">134</p> <p>1 including veteran's benefits, Medicaid, or Medicare.</p> <p>2 Do you see that?</p> <p>3 A. I do see it.</p> <p>4 Q. Then it further permits a temporary driving</p> <p>5 permit issued to the person by the Department of Public</p> <p>6 Safety; is that correct?</p> <p>7 A. It is correct.</p> <p>8 Q. And then the next section permits a pilot's</p> <p>9 license issued to the person by the Federal Aviation</p> <p>10 Administration or another authorized agency of the</p> <p>11 United States. Do you see that?</p> <p>12 A. I do.</p> <p>13 Q. And then there's two more. One -- the next is</p> <p>14 a library card that contains the person's name issued</p> <p>15 to the person by a public library located in this</p> <p>16 state; is that correct?</p> <p>17 A. It is correct.</p> <p>18 Q. Or -- and then the last -- the last one,</p> <p>19 No. 11 there says, "A hunting or fishing license issued</p> <p>20 to the person by the Parks and Wildlife Department" (as</p> <p>21 read). Is that correct?</p> <p>22 A. Yes.</p> <p>23 Q. So this section that starts on Page 6 and runs</p> <p>24 to Page 7 permits, it looks like, 11 categories of</p> <p>25 non-photo identification that are permitted for</p>	<p style="text-align: center;">136</p> <p>1 Q. Does that mean that this bill 3556 documents</p> <p>2 or includes the types of voter identification that you</p> <p>3 find acceptable for voter ID?</p> <p>4 MR. BRISSENDEN: I'm going to instruct</p> <p>5 the witness that to the extent that the question</p> <p>6 requires you to divulge your mental impressions, your</p> <p>7 thoughts, analysis of House Bill 3556, I would instruct</p> <p>8 you not to answer. To the extent you can answer the</p> <p>9 question without disclosing information that is</p> <p>10 privileged, you may answer.</p> <p>11 THE WITNESS: I will use my privilege.</p> <p>12 Q. (BY MS. BERKOWER) Would you agree, though,</p> <p>13 that you introduced a bill into the House that would</p> <p>14 permit a voter to show an employee ID card as proof of</p> <p>15 identification? That's Page 5, Line 23.</p> <p>16 A. I'm sorry. Repeat that again.</p> <p>17 Q. I said would you agree that you introduced a</p> <p>18 bill into the House that would allow a voter to present</p> <p>19 employee identification cards as proof of</p> <p>20 identification to vote?</p> <p>21 A. No. I filed a bill that would allow for valid</p> <p>22 employee identification card that contains a person's</p> <p>23 photograph that is issued by an employed person in the</p> <p>24 ordinary course of the employer's business.</p> <p>25 Q. In order to vote?</p>

<p style="text-align: center;">137</p> <p>1 A. Correct.</p> <p>2 Q. And you introduced -- is it true that you</p> <p>3 introduced a bill into the House that would allow a</p> <p>4 voter to present a driver's license or personal</p> <p>5 identification card issued by the Texas Department of</p> <p>6 Public Safety that had expired within two years before</p> <p>7 the date of presentation? Now I'm looking at Lines 13</p> <p>8 through 16 on Page 5.</p> <p>9 A. I don't know if I heard you exactly. But that</p> <p>10 has not expired or that expired no earlier than two</p> <p>11 years before the date of the presentation, yes.</p> <p>12 Q. Yes. Isn't it true -- and now I'm looking at</p> <p>13 Page 6, Line 4 -- isn't it true that you introduced a</p> <p>14 bill into the House that would allow a voter to use a</p> <p>15 student identification card issued by a public or</p> <p>16 private institution of higher education located in</p> <p>17 Texas that contains the person's photograph in order to</p> <p>18 vote?</p> <p>19 A. That is correct.</p> <p>20 Q. Now I'm looking at Line 12. Isn't it true</p> <p>21 that you would allow a voter to present photographic</p> <p>22 identification that has not expired from an agency or</p> <p>23 institution of the Federal Government in order to vote?</p> <p>24 A. Correct.</p> <p>25 Q. And you introduced a bill into the House that</p>	<p style="text-align: center;">139</p> <p>1 MR. BRISSENDEN: I'm going to instruct</p> <p>2 the witness not to -- instruct you not to disclose</p> <p>3 thoughts, opinions, mental impressions, analysis of the</p> <p>4 legislation and instruct you not to answer.</p> <p>5 THE WITNESS: I would agree with that.</p> <p>6 Q. (BY MS. BERKOWER) Okay. Well, turning back</p> <p>7 to Page 1 of the pledge.</p> <p>8 A. Certainly.</p> <p>9 Q. Does the bill that you introduce ensure that a</p> <p>10 valid photo identification is needed to vote?</p> <p>11 MR. BRISSENDEN: I'm going to instruct</p> <p>12 the witness not to disclose your mental impression,</p> <p>13 thoughts and opinions, analysis of the legislation.</p> <p>14 You may answer as to what the general purpose of the</p> <p>15 legislation was.</p> <p>16 Q. (BY MS. BERKOWER) I'll rephrase the question,</p> <p>17 actually. Item 1 on the pledge says that, "The bill</p> <p>18 must ensure a valid photo identification is needed to</p> <p>19 vote" (as read). Is that an accurate -- did I</p> <p>20 accurately read that?</p> <p>21 A. You did accurately read it.</p> <p>22 Q. Isn't it true that the bill you introduced in</p> <p>23 the House does not require a valid photo identification</p> <p>24 in order to vote?</p> <p>25 A. No, it does require a valid photo</p>
<p style="text-align: center;">138</p> <p>1 would allow a voter to present valid photo</p> <p>2 identification from a state agency, institution, or</p> <p>3 political subdivision in order to vote; is that</p> <p>4 correct?</p> <p>5 A. That is correct.</p> <p>6 Q. And you introduced -- now starting again on</p> <p>7 Line 16 on Page 6 -- you introduced a bill into the</p> <p>8 House that would allow voters to present non-photo</p> <p>9 identification as acceptable proof of identification in</p> <p>10 order to vote; is that correct?</p> <p>11 A. Yes.</p> <p>12 Q. Getting back to the pledge, just a couple more</p> <p>13 questions about that. Did anyone ask you to sign the</p> <p>14 pledge?</p> <p>15 MR. BRISSENDEN: I'm going to instruct</p> <p>16 the witness not to disclose communications you had with</p> <p>17 your staff and with other legislators and their staff.</p> <p>18 To the extent that you can answer the question without</p> <p>19 disclosing communications that you had with those</p> <p>20 legislators or their staff members, you may answer.</p> <p>21 THE WITNESS: I don't believe anyone</p> <p>22 asked me to sign the pledge.</p> <p>23 Q. (BY MS. BERKOWER) In your view, did the bill</p> <p>24 that you introduced in the House, 3556, comply with the</p> <p>25 pledge?</p>	<p style="text-align: center;">140</p> <p>1 identification to vote.</p> <p>2 Q. Can't a voter under the bill you introduce</p> <p>3 provide nonvoter identification in order to vote?</p> <p>4 A. It does.</p> <p>5 Q. So does it require, in all circumstances, that</p> <p>6 a valid photo identification is needed to vote?</p> <p>7 A. It doesn't, but the pledge doesn't say that</p> <p>8 either.</p> <p>9 Q. What was the purpose of the bill you</p> <p>10 introduced, H.B. 3556?</p> <p>11 A. To ensure confidence and integrity in the</p> <p>12 election process in Texas.</p> <p>13 MR. BRISSENDEN: And just so the record</p> <p>14 is clear, I'm instructing the witness to limit his</p> <p>15 answer to general purpose.</p> <p>16 Q. (BY MS. BERKOWER) What happened to H.B. 3556</p> <p>17 that you introduced? Do you remember?</p> <p>18 A. I don't, but I think it didn't even get a</p> <p>19 hearing, or maybe it was heard. I actually don't know.</p> <p>20 But it didn't move through the process at any level.</p> <p>21 Q. Did you ultimately vote for S.B. 362?</p> <p>22 A. I'm certain if it -- well, yeah, I don't know.</p> <p>23 The record would reflect that. I don't recall.</p> <p>24 Q. Was there opposition to S.B. 362 in the House</p> <p>25 on the public record?</p>

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1 have been produced. I think there were some technical  
2 problems that might have delayed some of them. But I  
3 know at least an attempt at the production has been  
4 made.

5 MR. BRISSENDEN: Right. I believe there  
6 was a -- some technical difficulties that made  
7 production slightly after noontime. But I believe from  
8 our office standpoint those documents that Elizabeth  
9 specifically asked for have been produced. And I  
10 believe there will be more produced that weren't a part  
11 of Elizabeth's letter. Those will be produced later  
12 today.

13 MS. BERKOWER: Thank you for that  
14 clarification.

15 Q. (BY MS. BERKOWER) Are you ready?

16 A. Yes, ma'am, sure.

17 Q. So turning to the last page first, before I  
18 forget, it says -- it looks like Ms. Rogers signed her  
19 initial correspondence to you. Do you see that?

20 A. I don't know exactly what you mean.

21 Q. On the last page, one more page at the top  
22 there.

23 A. Okay. What do you mean "to me"?

24 Q. Well, on the page -- on Page 5 it looks like  
25 her -- her initial correspondence to you is reproduced,

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1 and then the end of it spills on to Page 6 and she  
2 signs her name, Kathy Rogers. Do you see that?

3 A. Yes, I do.

4 Q. And then she signed underneath that Jenai's  
5 friend's mom?

6 A. Correct.

7 Q. Who is Jenai?

8 A. Jenai is my niece.

9 Q. Have you received other requests or  
10 communications from Jenai or another constituent that  
11 indicated you'd be getting communication is from  
12 Ms. Rogers?

13 A. No. Jenai is my niece who is a young -- she's  
14 now I think a sophomore or junior in high school. At  
15 the time she would have been in middle school or a  
16 freshman. And I think Kathy Rogers was providing --  
17 trying to provide context and significance to her  
18 correspondence by presenting and knowing of my family.

19 Q. When she said Jenai's friend's mom, did you  
20 know who --

21 A. Well, I know who Jenai is, absolutely.

22 Q. Okay. On Page 2 of this letter -- well, okay.  
23 So it looks like this document reproduces her letter to  
24 you and then most of the document is your letter back  
25 to her. Would you agree with that characterization?

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1 A. I believe that's correct, yes.

2 Q. On Page 2 you said that you requested to be a  
3 member of the House Elections Committee so that we  
4 could pass a powerful and meaningful piece of  
5 legislation. Did I read that accurately?

6 A. You did.

7 Q. Is that true?

8 A. It is true that it says so that we could pass  
9 a powerful and meaningful piece of legislation and that  
10 I requested to be a member of the House Elections  
11 Committee, yes.

12 Q. Did you request to be a member of the House  
13 Elections Committee?

14 A. I would assume I did.

15 Q. I just wanted to be sure because earlier I  
16 don't know that we covered that information, or at  
17 least I'm not sure you remembered if you had.

18 A. Earlier I believe we were referencing the  
19 select committee.

20 Q. Okay.

21 A. And that was in the 2011 session, and we're  
22 now referring to my appointment to the elections  
23 committee in 2009.

24 Q. So you did request to be a member of that  
25 committee?

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1 A. Yes. And for clarity, the elections committee  
2 is a standing committee that members are able to  
3 request, whereas the select committee is exactly that,  
4 and it's not a committee that members would have been  
5 aware of that it was going to exist and therefore  
6 request it.

7 Q. In the previous paragraph you say that you  
8 voted against -- well, I guess maybe we should back up  
9 earlier.

10 A. Okay.

11 Q. Do you know which -- what Ms. Rogers' concern  
12 was in writing to you?

13 A. Well, she says, "I've been tasked by the  
14 Galveston County GOP to find out why you voted against  
15 the voter ID bill. They don't want to hear that you  
16 didn't think it was strong enough because" -- in  
17 quotes -- "that is always sorted out in the House  
18 Senate Committee. I hope you'll support it when it  
19 comes to the floor. Thanks in advance for any  
20 nonautomated reply" (as read), and then there's a "J."

21 Q. And then I think it looks like above her  
22 e-mail to you on the left-hand it says "881 R.S. 362."  
23 Can you explain what that means?

24 A. I assume, because I don't really deal with  
25 this system; my staff does -- I assume it would mean

<p style="text-align: center;">149</p> <p>1 that it was -- it is -- it is indicating that this</p> <p>2 individual is for a bill in the 81st regular session,</p> <p>3 that is Senate Bill 362.</p> <p>4 Q. Okay. So do you think we can conclude that</p> <p>5 the bill Ms. Rogers is referring to you that voted</p> <p>6 against is S.B. 362?</p> <p>7 A. Yes, but for clarity, I believe it would be</p> <p>8 362 as carried in the House by Representative Smith.</p> <p>9 Q. Okay. Thank you for that clarification. So</p> <p>10 turning now to Page 2 -- turning now to Page 2, the</p> <p>11 first full paragraph, the last line.</p> <p>12 A. Uh-huh.</p> <p>13 Q. I'm sorry. Sorry. The second full paragraph,</p> <p>14 the last sentence, you said that you "Voted against the</p> <p>15 bill to send a strong message to Chairman Smith and to</p> <p>16 all Texans that his bill is completely unacceptable and</p> <p>17 it is an outright insult to citizens who have demanded</p> <p>18 effective voter ID legislation" (as read).</p> <p>19 Did I read that accurately?</p> <p>20 A. "I voted against the bill to send a strong</p> <p>21 message to Chairman Smith and to all Texans that this</p> <p>22 bill is completely in acceptable and is outright insult</p> <p>23 to citizens who have demanded effective voter ID</p> <p>24 legislation" (as read), that is correct.</p> <p>25 Q. Doesn't S.B. 362 contain many of the same</p>	<p style="text-align: center;">151</p> <p>1 minute to confer with counsel?</p> <p>2 A. Absolutely.</p> <p>3 (Conferring.)</p> <p>4 Q. (BY MS. BERKOWER) So now that we've talked</p> <p>5 about this correspondence with Ms. Rogers, I think -- I</p> <p>6 think maybe you said earlier you didn't remember if you</p> <p>7 had voted for Representative Smith's bill. Does this</p> <p>8 refresh your recollection?</p> <p>9 A. It refreshes the recollection that I voted</p> <p>10 against it in the committee.</p> <p>11 Q. Did you vote for it on the floor?</p> <p>12 A. I don't remember. I think I did, but I'm not</p> <p>13 certain of that. The record would show us that.</p> <p>14 Q. What ultimately happened to S.B. 362 in the</p> <p>15 House? Do you remember?</p> <p>16 A. I don't.</p> <p>17 Q. Do you remember there being interim charge to</p> <p>18 the committee on elections after the 2009 session?</p> <p>19 A. There are always interim charges given to</p> <p>20 committees after sessions, so I'm certain there were.</p> <p>21 I don't know specifically what those charges were.</p> <p>22 Q. Do you remember being involved with a report</p> <p>23 prepared pursuant to an interim session charge?</p> <p>24 A. I wasn't -- I'm sure I signed a report. I</p> <p>25 don't know if I did or not. I'm sure there was a</p>
<p style="text-align: center;">150</p> <p>1 identification requirements that you included in House</p> <p>2 Bill 3556?</p> <p>3 MR. BRISSENDEN: I instruct the witness</p> <p>4 not to disclose his thoughts, impressions, and analysis</p> <p>5 of the legislation and instruct him not answer.</p> <p>6 Q. (BY MS. BERKOWER) Okay. Well, then let's</p> <p>7 turn back to House Bill 3556 and also Senate Bill 362.</p> <p>8 Please turn to Page 5 in both documents.</p> <p>9 A. Which exhibits are you referring to?</p> <p>10 Q. I'm sorry. That's Exhibit 434.</p> <p>11 A. 436.</p> <p>12 Q. So turning to Page 5 --</p> <p>13 A. What version of the bill is this?</p> <p>14 Q. Of that bill, I believe it's as filed.</p> <p>15 MR. BRISSENDEN: We're referring to</p> <p>16 Exhibit 434 for the record.</p> <p>17 THE WITNESS: Right. So the issue I</p> <p>18 would have concern with here is that you're asking me</p> <p>19 to compare a bill as filed in trying to create context</p> <p>20 in the bill I voted against coming out of committee,</p> <p>21 which is not this bill.</p> <p>22 Q. (BY MS. BERKOWER) Okay.</p> <p>23 A. It was changed in the House.</p> <p>24 Q. Okay. In that case we'll come back to this</p> <p>25 later and leave it alone for now. Can I just take a</p>	<p style="text-align: center;">152</p> <p>1 report written. I didn't write the report, though.</p> <p>2 Q. Do you remember if the charge asked the</p> <p>3 committee to investigate the prevalence of voter fraud</p> <p>4 in Texas?</p> <p>5 A. There would be a record of whether it said</p> <p>6 that or not. I -- I personally don't recall.</p> <p>7 Q. I'm going to show you what I'm going to mark</p> <p>8 as Exhibit 438.</p> <p>9 MS. BERKOWER: Is that what we're up to?</p> <p>10 438.</p> <p>11 (Exhibit No. 438 marked)</p> <p>12 Q. (BY MS. BERKOWER) This one, the cover stages</p> <p>13 didn't get stapled on to it, but I will represent to</p> <p>14 you that this is an excerpt of --</p> <p>15 A. Certainly, charges. Fair enough.</p> <p>16 Q. And I don't have the cover pages. Does this</p> <p>17 help refresh your recollection about the interim</p> <p>18 charge?</p> <p>19 A. Well, it is a copy of the report filed --</p> <p>20 House Committee Elections report filed January 2011,</p> <p>21 interim report.</p> <p>22 Q. Were you involved with the preparation of that</p> <p>23 report?</p> <p>24 A. Very insignificantly.</p> <p>25 Q. What was your role with regard to the</p>

<p style="text-align: center;">153</p> <p>1 preparation of that report?</p> <p>2 A. I don't remember if we had a hearing that I</p> <p>3 may have attended. But beyond that, I wouldn't have</p> <p>4 had any more involvement.</p> <p>5 Q. To be clear, do you remember if there was a</p> <p>6 hearing?</p> <p>7 A. I don't.</p> <p>8 Q. Do you remember --</p> <p>9 A. Well, let me -- let me state it more</p> <p>10 accurately. I'm sure there was probably a hearing. I</p> <p>11 don't recall whether I attended a hearing or not.</p> <p>12 There would be a record. There might have been more</p> <p>13 than one hearing for that matter.</p> <p>14 Q. You don't remember any of the hearings,</p> <p>15 though?</p> <p>16 A. I don't recall whether -- and I'm talking</p> <p>17 about in the interim.</p> <p>18 Q. Yes.</p> <p>19 A. Yeah. I don't recall specifically whether</p> <p>20 there were hearings or not and if I was at the</p> <p>21 hearings.</p> <p>22 Q. Turning to Page 27, which is --</p> <p>23 A. I've got it.</p> <p>24 Q. This is an excerpt.</p> <p>25 A. Yes.</p>	<p style="text-align: center;">155</p> <p>1 Q. So the -- in the third paragraph of that</p> <p>2 section, the last line, does it -- it reads, "To get a</p> <p>3 complete picture of voter fraud in Texas, further</p> <p>4 analysis is needed to gather additional information</p> <p>5 from local election and law enforcement officials" (as</p> <p>6 read). Do you see that?</p> <p>7 A. Yes, ma'am.</p> <p>8 Q. Do you know of any -- if any such analysis was</p> <p>9 ever conducted pursuant to what's in the public record?</p> <p>10 MR. BRISSENDEN: And just the record --</p> <p>11 we're clear, the question is limited to what is in the</p> <p>12 public record. To the extent you can answer that</p> <p>13 question, go ahead.</p> <p>14 Q. (BY MS. BERKOWER) I can rephrase the</p> <p>15 question, actually.</p> <p>16 Do you know if there is any such analysis</p> <p>17 included in the public record?</p> <p>18 A. I know in public testimony there have been</p> <p>19 examples of -- from local election officials and law</p> <p>20 enforcement officials of concerns with voter integrity.</p> <p>21 Q. Were those presented in the public record</p> <p>22 before or after this testimony?</p> <p>23 A. My recollection is that it was presented</p> <p>24 before and after.</p> <p>25 Q. And were those -- were those public</p>
<p style="text-align: center;">154</p> <p>1 Q. The fourth full paragraph.</p> <p>2 A. Under testimony or including background?</p> <p>3 Q. Under -- under testimony.</p> <p>4 A. Okay.</p> <p>5 Q. Does that -- well, does the testimony --</p> <p>6 there's a section called "Testimony." Do you see that?</p> <p>7 A. Correct. Yes, ma'am.</p> <p>8 Q. Does it indicate that someone from the</p> <p>9 Attorney General's office came to testify before the</p> <p>10 committee?</p> <p>11 A. Well, yes, you know, it says above that the</p> <p>12 committee held a hearing on June 14th, 2010, to gather</p> <p>13 more information about issues related to voter</p> <p>14 identification to fulfill the interim charge. You are</p> <p>15 correct. It says Jay Dyer, Deputy Attorney General for</p> <p>16 government and external affairs testified. Yes.</p> <p>17 Q. Okay. And then does -- do the next couple of</p> <p>18 paragraphs summarize Mr. Dyer's testimony?</p> <p>19 A. I assume it does, but I can't say accurately</p> <p>20 whether it does or not because I don't recall his</p> <p>21 testimony. I don't even think I was at the hearing.</p> <p>22 Q. Is that the intent of these paragraphs, to</p> <p>23 summarize what he testified to?</p> <p>24 A. As I said, I assume it is. But I can't vouch</p> <p>25 for it.</p>	<p style="text-align: center;">156</p> <p>1 presentations in the form of analysis, or were they in</p> <p>2 the form of individual anecdotal accounts for case</p> <p>3 studies?</p> <p>4 A. I'm not sure what you would specifically call</p> <p>5 them. I believe there were different individuals and</p> <p>6 different election officials from different parts of</p> <p>7 the state who gave reports of concerns with voter</p> <p>8 integrity.</p> <p>9 Q. Did any of those reports conduct a broad</p> <p>10 analysis of local election enforcement on -- of</p> <p>11 election fraud enforcement on the local or county</p> <p>12 level, to your knowledge, in the public record?</p> <p>13 A. Well, I don't think the issue was about</p> <p>14 reports. It was about specific instances and concerns</p> <p>15 of voter fraud.</p> <p>16 Q. So, to -- to your knowledge, was there any</p> <p>17 comprehensive analysis that gathered additional</p> <p>18 information from local election and law enforcement</p> <p>19 many officials concerning voter fraud?</p> <p>20 MR. BRISSENDEN: Objection, vague.</p> <p>21 Objection, compound. Again, the question is limited to</p> <p>22 what's in the public record.</p> <p>23 Q. (BY MS. BERKOWER) Indeed.</p> <p>24 A. I believe that information was brought to us</p> <p>25 showing reports from certain counties or from counties</p>

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1 who had reviewed for voter fraud and voter  
 2 irregularities.  
 3 Q. But, to be clear, were any of those reports a  
 4 statewide analysis? And I'm limiting go this to the  
 5 public record.  
 6 A. No, I don't think they were statewide  
 7 analysis, because they were -- they were requested from  
 8 local election and law enforcement officials.  
 9 Q. In the paragraph above that it describes  
 10 Mr. Dyer's testimony concerning referrals and instances  
 11 of alleged illegal voting. Do you see that?  
 12 A. Is that the second sentence, allegations of  
 13 voter fraud without being asked, or where?  
 14 Q. I think it's the second paragraph about  
 15 Mr. Dyer's testimony that starts, "Since 2002."  
 16 A. Okay.  
 17 Q. So do you see that paragraph?  
 18 A. Yes, ma'am.  
 19 Q. Does it -- does it say Mr. Dyer testified that  
 20 the Attorney General's office received 267 referrals of  
 21 incidences of alleged illegal voting since 2002?  
 22 A. It does.  
 23 Q. Does it also say Mr. Dyer testified that 35 of  
 24 those alleged violations were resolved with guilty  
 25 pleas?

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1 A. It does.  
 2 Q. Dismissals or plea agreements, while 12 cases  
 3 remain active.  
 4 A. Yes, ma'am.  
 5 Q. Out of the 267.  
 6 A. That -- that is what it reads.  
 7 MR. BRISSENDEN: For the record, it goes  
 8 on to --  
 9 MS. BERKOWER: Sorry. Did you want to  
 10 say something?  
 11 MR. BRISSENDEN: I was going to ask you  
 12 to complete the sentence.  
 13 Q. (BY MS. BERKOWER) I thought -- okay. 35 -- I  
 14 thought I cited 12 cases remain active, and the  
 15 remainder of the cases are still being investigated  
 16 where the statute of limitations has expired. So it  
 17 doesn't explain how many cases can -- are no longer  
 18 being pursued; is that correct?  
 19 A. No, it does not give a number to that. It  
 20 simply says 35 were resolved with pleas of guilty,  
 21 dismissals, or plea agreements. 12 cases remain  
 22 active. And the rest are under current investigation  
 23 or have had the statute run. So we don't know  
 24 specifically the number.  
 25 Q. And the purpose of this interim charge, what

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1 was it? What was the purpose of the interim charge?  
 2 A. It was --  
 3 MR. BRISSENDEN: I'm going to instruct  
 4 the witness that you can answer the question in terms  
 5 of generally speaking, what is the general purpose of  
 6 an interim charge.  
 7 THE WITNESS: Well, she -- I'm sorry.  
 8 MR. BRISSENDEN: With regards to the  
 9 purpose of this particular charge as it relates to this  
 10 particular legislation. If you can answer the question  
 11 without divulging your thoughts, analysis, and mental  
 12 impressions with regards to this legislation, you may  
 13 answer. If you can't without disclosing, then I  
 14 instruct you not to answer.  
 15 THE WITNESS: To the best of my knowledge  
 16 interim charge No. 3, "Examine the prevalence of fraud  
 17 in Texas elections, study new laws in other states  
 18 regarding voter identification, and recommend statutory  
 19 changes necessary to ensure that only eligible voters  
 20 can vote in Texas elections" (as read).  
 21 Q. (BY MS. BERKOWER) Did the report make a  
 22 recommendation?  
 23 A. It appears it did.  
 24 Q. And was that recommendation based on the  
 25 evidence that the committee reviewed?

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1 A. Possibly.  
 2 Q. Why is it possible that it would be based  
 3 on --  
 4 A. They could have based it on whatever they felt  
 5 necessary. I can't be certain what they -- they  
 6 wrote -- someone else wrote the report. So I can't  
 7 speak to what they chose to make a recommendation  
 8 entirely or partially based upon.  
 9 Q. Does that mean that sometimes recommendations  
 10 are made to the Legislature that are not based on  
 11 evidence before whatever committee is making the  
 12 recommendation?  
 13 MR. BRISSENDEN: Objection, calls for  
 14 speculation.  
 15 Q. (BY MS. BERKOWER) You may answer.  
 16 MR. BRISSENDEN: I'm going to instruct  
 17 the witness that to the extent you have knowledge that  
 18 is based upon your personal experience with regards to  
 19 specific legislative matters, I would instruct you not  
 20 to answer and disclose that information. To the extent  
 21 that you can answer that question as a general  
 22 procedural matter, you may.  
 23 THE WITNESS: I think the point of my  
 24 answer is that I don't know factually what they base  
 25 their recommendations on. And to your question, the

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1 Legislature does not act as a judicial body that takes  
2 evidentiary information or is required to draw  
3 conclusions.

4 Q. (BY MS. BERKOWER) Okay. Thank you for the  
5 clarification.

6 MS. BERKOWER: How are we doing? Do you  
7 need to take a break?

8 MR. BRISSENDEN: Sure. Why don't we take  
9 a short break.

10 (Recess from 3:07 p.m. to 3:27 p.m.)

11 Q. (BY MS. BERKOWER) Do you remember if there  
12 was -- turning back to the 2009 legislative session  
13 just for a few more moments, do you remember if a bill  
14 on voter identification was voted out of the elections  
15 committee on -- into the full House that year?

16 A. I believe there was, yes.

17 Q. Do you remember which bill was voted out of  
18 committee?

19 A. It was a senate bill carried by  
20 Representative Smith in the House, I believe.

21 Q. Do you remember if that was Senate Bill 362?

22 A. I mean, the record would show us that. I  
23 don't know specifically. It probably was. But I don't  
24 know absolutely.

25 Q. Do you remember if the bill voted out of

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1 committee had been amended while it was in the  
2 committee?

3 A. I'm pretty certain -- well, I don't know if it  
4 was amended, not to be difficult. I think it was -- I  
5 think a substitute of the bill was produced. And I  
6 don't know if it was amended or not. But I don't know.

7 Q. How did you vote on Senate Bill 362?

8 A. When?

9 Q. When it -- sorry. When it was -- when the  
10 vote was to send it out of the committee to the full  
11 House?

12 A. I believe I voted no.

13 Q. No?

14 A. I believe I voted no.

15 Q. Do you remember if the bill that you voted no  
16 on allowed for nonphotographic identification as --

17 A. I imagine it did, but I don't know  
18 specifically.

19 Q. Didn't the bill that you introduced, that  
20 Session 3556, include nonphotographic identification?

21 A. We've been over that, and it did.

22 Q. Did you issue any public statements about why  
23 you voted against the bill?

24 A. I may have. I don't recall.

25 Q. Did you communicate with any constituents

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1 about why you voted against the bills?

2 MR. BRISSENDEN: Don't disclose any  
3 thoughts, impressions, or mental analysis about  
4 conversations.

5 Q. (BY MS. BERKOWER) I asked a yes or no  
6 question, did you communicate with constituents about  
7 the bill. I didn't ask for the content of the  
8 communications.

9 MR. BRISSENDEN: I don't -- I believe  
10 your question was more along the lines about why he  
11 voted against the bill as opposed to just a more  
12 general question about the legislation.

13 Q. (BY MS. BERKOWER) Okay. I'll rephrase the  
14 question.

15 Did you communicate with any constituents  
16 about the fact that you voted against the bill?

17 A. Well, technically speaking, Mrs. Rogers, whose  
18 correspondence we've already gone through rather  
19 thoroughly, is not my constituent. But I obviously did  
20 communicate with her. I don't know. We did a document  
21 search and provided the appropriate individuals with  
22 the information. I'm sure if I did, it's there. But I  
23 don't know -- I struggle to recall specific  
24 correspondences with constituents from three and four  
25 years ago.

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1 Q. Okay. Well, just to briefly turn your  
2 attention back to that correspondence with Ms. Rogers,  
3 I think you have it there in front of you.

4 A. Yes.

5 Q. What's the exhibit number on that?

6 A. 437.

7 Q. 437. On Page 2, in the second full paragraph.

8 A. Uh-huh.

9 Q. You said, "Before casting my nay vote in  
10 committee, I took a pass on voting to ensure that there  
11 were enough votes being billed to the House floor.  
12 Upon seeing that there were five votes, I voted against  
13 the bill to send a strong message to Chairman Smith and  
14 to all Texans that this bill is completely unacceptable  
15 and that it is an outright insult to citizens who have  
16 demanded effective voter ID legislation" (as read).

17 Is that a different bill than the bill  
18 that was ultimately sent to the full House?

19 A. I don't know. What do you mean?

20 Q. Did you vote no on the bill that went out of  
21 committee?

22 A. Yes, we -- we established that earlier.

23 Q. Is that the bill you're referencing in this  
24 paragraph?

25 A. Absolutely.

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1 Q. Do you remember what the provisions of that  
2 bill were?  
3 A. I do not.  
4 Q. Do you remember if that bill allowed for  
5 nonphotographic identification for voters?  
6 A. Specifically I don't recall, but my assumption  
7 is -- is that it did.  
8 Q. But you don't remember any of the specific  
9 provisions of that bill?  
10 A. No.  
11 Q. During the 2011 legislative session, were you  
12 staffed on any committees this addressed  
13 election-related or voter ID-related legislation?  
14 A. What?  
15 Q. During the 2011 legislative session, were you  
16 staffed on any committees that addressed  
17 election-related or voter ID-related legislation?  
18 MR. BRISSENDEN: Objection.  
19 THE WITNESS: What do you mean by  
20 "staffed"? I don't know what that means. Was I  
21 assigned to one, you mean?  
22 Q. (BY MS. BERKOWER) That's what I mean.  
23 A. Okay. I'm sorry. I didn't mean to be  
24 difficult. Yes, I was assigned to the select  
25 committee.

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1 Q. Did you also introduce election-related --  
2 sorry -- election-related legislation that session?  
3 MR. BRISSENDEN: Objection, vague.  
4 Q. (BY MS. BERKOWER) You can answer.  
5 MR. BRISSENDEN: You can answer.  
6 THE WITNESS: In 2011?  
7 Q. (BY MS. BERKOWER) Yes.  
8 A. I believe I did.  
9 Q. Do you remember which bill that was?  
10 A. No, I don't.  
11 (Exhibit No. 439 marked)  
12 Q. (BY MS. BERKOWER) I have Exhibit 439 here.  
13 Do you recognize this?  
14 A. It's House Bill No. 624 filed by Bonnen, which  
15 is myself.  
16 Q. What did this bill do?  
17 A. It would have ensured the integrity and  
18 confidence in elections in the State of Texas.  
19 Q. What were the bill's terms?  
20 A. Its terms.  
21 Q. Well, let me back up a second. Do you  
22 remember when you introduced this bill?  
23 A. I do not. With it being the number of 624, I  
24 imagine it was probably earlier in the process.  
25 Q. I don't know if I necessarily need to

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1 introduce this as an exhibit. But I can give it to you  
2 to see if it refreshes your recollection.  
3 A. Sure. Yeah, it doesn't bother me.  
4 MR. BRISSENDEN: Why don't we go ahead  
5 and mark that as an exhibit.  
6 MS. BERKOWER: Okay. I'll mark that as  
7 Exhibit 440.  
8 (Exhibit No. 440 marked)  
9 Q. (BY MS. BERKOWER) Do you know what this is?  
10 A. This is the Texas Legislature on-line history  
11 for House Bill 624.  
12 Q. Does it refresh your recollection as to when  
13 you filed --  
14 A. It does. It indicates -- this record  
15 indicates that I filed the bill on January 12th of  
16 2011.  
17 Q. Do you remember if that was before or after  
18 you were assigned to be chairman of the select  
19 committee?  
20 A. It was before.  
21 Q. At the time that you introduced this bill, had  
22 you seen or heard anything about Senate Bill 14?  
23 A. I doubt it. I can't say absolutely, but I  
24 doubt that I have.  
25 Q. Had you had any communications with

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1 Senator Frazier in the fall of 2010?  
2 A. I don't think I had any, but I wouldn't want  
3 to lie and say I hadn't. I doubt I did. I mean, I  
4 don't --  
5 Q. You can't remember any?  
6 A. No. We don't communicate a lot.  
7 Q. Just as a general matter, if you are working  
8 on a piece of legislation and you know there's  
9 something similar being drafted in the Senate, do you  
10 try to communicate with the senators who are working on  
11 that legislation?  
12 A. As a general matter, it really just depends.  
13 Sometimes you might, sometimes you might not.  
14 Candidly, sometimes there's some competition to try to  
15 be the lead author, be it a House bill versus a Senate  
16 bill. So it really truly varies as to whether there  
17 would be any real communication or positive working in  
18 that regard. So there's no -- there was no patent  
19 scenario there.  
20 Q. Do you recall any communications with members  
21 of Senator Frazier's staff in the fall of 2010?  
22 A. I do not recall any.  
23 Q. What was the purpose of House Bill 624?  
24 MR. BRISSENDEN: I'm instructing the  
25 witness that -- to answer the question in terms of the

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1 general purpose of the legislation and not to disclose  
 2 mental impressions, analysis, and opinions about the  
 3 legislation.  
 4 THE WITNESS: General purpose was to  
 5 ensure integrity and confidence in the election process  
 6 in Texas.  
 7 Q. (BY MS. BERKOWER) Turning your attention to  
 8 Page 5, do you see the Section 63.0101, document of  
 9 proof of identification?  
 10 A. Yes, ma'am.  
 11 Q. And under Item 1 --  
 12 A. Yes.  
 13 Q. -- do you see that it permits a driver's  
 14 license or personal identification card issued to the  
 15 person by the Department of Public Safety that is not  
 16 expired or that has expired no earlier than one year  
 17 before the date of presentation?  
 18 A. Correct.  
 19 Q. Turning to the next page, Item 6 on Page 6 at  
 20 Line 10.  
 21 A. Yes, ma'am.  
 22 Q. Do you see that this bill would permit a voter  
 23 to use a student identification card from a public or  
 24 private institution of higher education that contains  
 25 the person's photograph?

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1 A. I do see that.  
 2 Q. And it looks like that is not limited to  
 3 institutions in the State of Texas; is that correct?  
 4 A. It says, "Student identification card issued  
 5 by a public or private institution of higher education  
 6 that contains the person's photograph," yes.  
 7 Q. So it doesn't have to be in Texas?  
 8 A. It does not appear to have limiting language,  
 9 no.  
 10 Q. Then the next section, Section 17 that starts  
 11 at Line 14, it permits a voter to use a valid  
 12 identification card that contains a person's photograph  
 13 and is issued by either an agency or institution of the  
 14 Federal Government, an agency, institution, or  
 15 political subdivision of this state, or a tribal  
 16 organization. Do you see that?  
 17 A. I do.  
 18 Q. Is this bill different from the bill you  
 19 introduced in the previous Legislature with regard to  
 20 the types of identifications that are permitted for  
 21 voters to use at the polls?  
 22 MR. BRISSENDEN: Just so we're clear and  
 23 the record is clear, which bill are you referring to?  
 24 MS. BERKOWER: 3556.  
 25 MR. BRISSENDEN: Exhibit 436?

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1 (Discussion off the record.)  
 2 THE WITNESS: The bill is not the same.  
 3 I forget -- I apologize. What was the question about  
 4 the two?  
 5 Q. (BY MS. BERKOWER) Is the House Bill 624 that  
 6 you introduced during the 2011 Legislature different  
 7 from the House Bill 556, which you introduced in the  
 8 2009 Legislature?  
 9 A. It is different.  
 10 Q. How is it different? And I'm asking with  
 11 regard to the types of identification voters may use to  
 12 vote at the polls.  
 13 A. Well, House Bill 3556 says a driver's license  
 14 or personal identification card issued to the person by  
 15 the Department of Public Safety that is not expired or  
 16 that expired no earlier than two years before the date  
 17 of presentation; and House Bill 624 says a driver's  
 18 license or personal identification card issued to the  
 19 person by the Department of Public Safety that is not  
 20 expired or that expired no later than one year before  
 21 the date of presentation. And then --  
 22 Q. Okay. Does --  
 23 A. Yes, ma'am.  
 24 Q. Sorry. Maybe to make this go a little faster  
 25 I'll just ask you some questions about -- about some of

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1 the terms.  
 2 A. Yes, ma'am.  
 3 Q. Does House Bill 3556 permit a voter to show a  
 4 valid employee identification card -- a photo  
 5 identification card issued by an employee -- an  
 6 employer? That's on Page 5 at Line 23.  
 7 MR. BRISSENDEN: Objection, asked and  
 8 answered.  
 9 THE WITNESS: I believe it does.  
 10 Q. (BY MS. BERKOWER) Does House Bill 624 allow  
 11 that type of identification to be used?  
 12 A. Not that specific type, no.  
 13 Q. Is there any evidence in the public record  
 14 that indicated that employee identification cards  
 15 should be -- should not be permitted to be used for  
 16 voters at the polls?  
 17 A. I believe that was discussed at times during  
 18 hearings and on the floor.  
 19 Q. Was it discussed in the time between when you  
 20 introduced 3556 and 624?  
 21 MR. BRISSENDEN: Again, you're limiting  
 22 your question to what's in the public record?  
 23 MS. BERKOWER: Yes.  
 24 THE WITNESS: I don't recall when  
 25 something like that was discussed or not discussed.

<p style="text-align: center;">173</p> <p>1 Q. (BY MS. BERKOWER) And with regard to -- you</p> <p>2 initially said that 3556 permitted a license -- a</p> <p>3 Department of Public Safety identification card or</p> <p>4 driver's license that expired within two years, and 624</p> <p>5 limits that to one year?</p> <p>6 A. That's correct.</p> <p>7 Q. Was there any evidence in the public record in</p> <p>8 the time between which you -- between when you</p> <p>9 introduced 3556 and 624 that supported a shorter period</p> <p>10 of time?</p> <p>11 A. I don't know whether there was or not.</p> <p>12 Q. Does H.B. 624 allow a tribal identification to</p> <p>13 be used?</p> <p>14 A. It does.</p> <p>15 Q. Does 3556 allow a tribal identification to be</p> <p>16 used?</p> <p>17 A. I don't believe that it includes that.</p> <p>18 Q. Is there any evidence in the public record</p> <p>19 that supported adding tribal identifications in the</p> <p>20 time between when you introduced 3556 and 624?</p> <p>21 A. I don't recall.</p> <p>22 Q. After -- turning your attention now just to</p> <p>23 House Bill 624.</p> <p>24 A. Okay.</p> <p>25 Q. Do you know of any analysis available in the</p>	<p style="text-align: center;">175</p> <p>1 bill contains different provisions and what the purpose</p> <p>2 of those provisions are, it's my understanding that</p> <p>3 those are privileged.</p> <p>4 Q. (BY MS. BERKOWER) Do you think that -- just</p> <p>5 as a general matter, why is an expired</p> <p>6 identification -- why won't an expired identification</p> <p>7 verify a person's identity?</p> <p>8 MR. BRISSENDEN: Because the question</p> <p>9 pertains to specific provisions of legislation,</p> <p>10 including S.B. 14, and you are now asking the witness</p> <p>11 about questions regarding mental impressions and asking</p> <p>12 why particular provisions were included, I'm going to</p> <p>13 instruct the witness not to answer.</p> <p>14 MS. BERKOWER: I think this falls into</p> <p>15 the category of things that we believe are basic</p> <p>16 background general information that don't necessarily</p> <p>17 relate directly to a legislative act or to his mental</p> <p>18 impressions or any deliberations that he participated</p> <p>19 in as a legislator, and as a consequence -- also,</p> <p>20 notwithstanding the fact that that question has been</p> <p>21 answered in many, many depositions in this case without</p> <p>22 an objection, we believe that that's not actually</p> <p>23 seeking to uncover privileged information. We ask that</p> <p>24 the state withdraws its objection.</p> <p>25 MR. BRISSENDEN: And I disagree with the</p>
<p style="text-align: center;">174</p> <p>1 public record relating to who among registered voters</p> <p>2 possess the forms of identification specified in the</p> <p>3 bill?</p> <p>4 A. Well, considering the bill never received a</p> <p>5 hearing, it was not even referred to the committee that</p> <p>6 I was chairing as a select committee, I don't think</p> <p>7 that kind of analysis was ever required in the bill.</p> <p>8 Q. Do you know why it wasn't referred to the</p> <p>9 select committee?</p> <p>10 A. I don't make those decisions.</p> <p>11 Q. What was the purpose of including a driver's</p> <p>12 license, a personal ID that expired within one year of</p> <p>13 presentation?</p> <p>14 MR. BRISSENDEN: Let me assert an</p> <p>15 objection as to privilege. I'm going to instruct the</p> <p>16 witness not to answer the question.</p> <p>17 THE WITNESS: I agree with privilege.</p> <p>18 MS. BERKOWER: I think our position is</p> <p>19 we're allowed to question on general legislative</p> <p>20 purpose.</p> <p>21 MR. BRISSENDEN: As I understand from the</p> <p>22 court's orders from yesterday and back in May, the</p> <p>23 court is allowing questions with regard to general</p> <p>24 purpose of a particular piece of legislation in</p> <p>25 general, but in terms of asking questions as to why the</p>	<p style="text-align: center;">176</p> <p>1 analysis because I believe that the question is</p> <p>2 requiring the witness to disclose his thoughts,</p> <p>3 opinions, mental impressions, and analysis about</p> <p>4 provisions of legislation that is directly related to</p> <p>5 provisions of different voter ID bills, including</p> <p>6 S.B. 14.</p> <p>7 Obviously the question is being asked</p> <p>8 because it does relate and has relevance to provisions</p> <p>9 of voter-ID bills, including S.B. 14, and I would</p> <p>10 instruct the witness not to answer.</p> <p>11 Q. (BY MS. BERKOWER) How many years is a Texas</p> <p>12 driver's license valid for?</p> <p>13 A. I don't know.</p> <p>14 Q. How -- when was the last time did you renewed</p> <p>15 your own driver's license?</p> <p>16 A. I do not know. I'm certain it was shortly</p> <p>17 after it expired or just before.</p> <p>18 Q. Do you remember --</p> <p>19 A. Which you can do on-line now, I believe.</p> <p>20 Q. That was my next question. Do you remember if</p> <p>21 you renewed it on-line?</p> <p>22 A. I don't believe I did, but I don't know for</p> <p>23 certainty.</p> <p>24 Q. If you renewed it on-line, would you have to</p> <p>25 take a new photograph?</p>

<p style="text-align: center;">177</p> <p>1 A. I don't know absolutely, but I think that's</p> <p>2 one of the positive natures of an on-line renewal is</p> <p>3 that you do not take a new photograph.</p> <p>4 Q. Do you have an estimate of -- so you said you</p> <p>5 don't know how long a driver's license is valid for; is</p> <p>6 that accurate?</p> <p>7 A. Yeah. I don't want to be incorrect. I think</p> <p>8 it's six years, but I'm not certain of that.</p> <p>9 Q. So more than a year?</p> <p>10 A. That's correct.</p> <p>11 Q. Probably -- maybe more than five years?</p> <p>12 A. Maybe, but I don't know. I mean, it's not</p> <p>13 something that's debated or unknown. I mean, we could</p> <p>14 find that out.</p> <p>15 Q. If you don't have to take a new photograph</p> <p>16 when you renew, does that mean that you could have the</p> <p>17 same photograph for up to maybe 12 years?</p> <p>18 A. I don't know what the facts are, but I imagine</p> <p>19 that could be the case. But I don't know.</p> <p>20 Q. Well, assume that it's six years. You know</p> <p>21 you can renew on-line.</p> <p>22 A. Uh-huh.</p> <p>23 Q. If it is, in fact, six years, does that mean</p> <p>24 you would have a 12-year period with the same</p> <p>25 photograph.</p>	<p style="text-align: center;">179</p> <p>1 THE WITNESS: Possible.</p> <p>2 Q. (BY MS. BERKOWER) Do you look the same way</p> <p>3 you looked 12 years ago?</p> <p>4 A. Let me think about that. I don't remember</p> <p>5 when I started shaving my head. So if I did 12 years</p> <p>6 ago, which I very well could have, I would look pretty</p> <p>7 much the same.</p> <p>8 Q. Do you know other people who no longer look</p> <p>9 the same way they looked 12 years ago?</p> <p>10 A. There are some.</p> <p>11 Q. If you don't look like the photo on your photo</p> <p>12 ID, how does that verify your identity?</p> <p>13 MR. BRISSENDEN: Objection, calls for</p> <p>14 speculation, assumes facts not in evidence.</p> <p>15 Q. (BY MS. BERKOWER) You can answer that.</p> <p>16 MR. BRISSENDEN: If you can.</p> <p>17 THE WITNESS: Repeat the question.</p> <p>18 MS. BERKOWER: Can you read it back,</p> <p>19 please?</p> <p>20 (The requested portion was read)</p> <p>21 MR. BRISSENDEN: Same objection.</p> <p>22 Q. (BY MS. BERKOWER) You may answer.</p> <p>23 A. I choose not to.</p> <p>24 Q. That's not an option.</p> <p>25 A. Okay. I'll explain it to you. How it works</p>
<p style="text-align: center;">178</p> <p>1 MR. BRISSENDEN: Objection, asked and</p> <p>2 answered.</p> <p>3 THE WITNESS: Assuming those facts are</p> <p>4 accurate, that certainly could happen.</p> <p>5 Q. (BY MS. BERKOWER) Do you know how long a US</p> <p>6 passport is valid for?</p> <p>7 A. I have no idea. I think it's ten years, but I</p> <p>8 don't really know. Isn't it ten years?</p> <p>9 Q. Do you know how long a citizenship certificate</p> <p>10 is valid for?</p> <p>11 A. I have no idea.</p> <p>12 Q. Do you know how long a naturalization</p> <p>13 certificate is valid for?</p> <p>14 A. No.</p> <p>15 Q. Is it possible that someone who possesses a</p> <p>16 valid photo identification might no longer look like</p> <p>17 the photograph?</p> <p>18 MR. BRISSENDEN: Objection, calls for</p> <p>19 speculation.</p> <p>20 Q. (BY MS. BERKOWER) You can answer that.</p> <p>21 A. I think it's speculative.</p> <p>22 Q. Okay. But is it possible that someone could</p> <p>23 have a photo ID and they know longer look like the</p> <p>24 photograph?</p> <p>25 MR. BRISSENDEN: Same objection.</p>	<p style="text-align: center;">180</p> <p>1 is if I have a valid Texas driver's license and my</p> <p>2 photo does not look the same as maybe I presently do,</p> <p>3 there are statistics and data verified by our</p> <p>4 government that will line-up with the statistics and</p> <p>5 data in the voter registration. And that is how you</p> <p>6 verify. It's not purely and simply in relation to the</p> <p>7 photo.</p> <p>8 Q. What statistics are you referring to?</p> <p>9 A. Someone's address, someone's height, weight.</p> <p>10 Q. What if they moved or gained weight or lost</p> <p>11 weight?</p> <p>12 A. Well, those are separate issues. If they</p> <p>13 moved, you're supposed to renew your license with that</p> <p>14 new address on it.</p> <p>15 Q. And what if they gained or lost a significant</p> <p>16 amount of weight?</p> <p>17 MR. BRISSENDEN: Objection, calls for</p> <p>18 speculation. To the extent you're able to answer the</p> <p>19 question, go ahead.</p> <p>20 THE WITNESS: That's not necessarily a</p> <p>21 factor that's being used to decide that you are the</p> <p>22 person you say are when you're going in to cast a</p> <p>23 ballot.</p> <p>24 Q. (BY MS. BERKOWER) Doesn't the photo, though,</p> <p>25 factor into whether or not the -- the ID card verifies</p>

<p style="text-align: center;">181</p> <p>1 your identity?</p> <p>2 MR. BRISSENDEN: Objection, calls for</p> <p>3 speculation.</p> <p>4 THE WITNESS: Yeah.</p> <p>5 Q. (BY MS. BERKOWER) You may answer.</p> <p>6 A. I think it's speculative.</p> <p>7 MS. BERKOWER: Okay. That answer is</p> <p>8 nonresponsive. I would ask the witness to provide a</p> <p>9 responsive answer.</p> <p>10 THE WITNESS: Repeat the question.</p> <p>11 MR. BRISSENDEN: Objection, asked and</p> <p>12 answered. Objection, calls for speculation. Let's</p> <p>13 move on.</p> <p>14 MS. BERKOWER: You're telling me to move</p> <p>15 on?</p> <p>16 MR. BRISSENDEN: He's tried to answer</p> <p>17 your question the best he can given the speculative</p> <p>18 nature of the question.</p> <p>19 Q. (BY MS. BERKOWER) Have you ever seen a</p> <p>20 naturalization certificate?</p> <p>21 A. I don't know if I have or not.</p> <p>22 Q. Have you ever known of a person who</p> <p>23 naturalized -- became a naturalized US citizen at a</p> <p>24 very young age, say, an adopted child?</p> <p>25 A. I -- I don't know about the "very young age"</p>	<p style="text-align: center;">183</p> <p>1 Q. Do you know how often the photographs are</p> <p>2 taken for tribal identifications?</p> <p>3 A. I have no idea.</p> <p>4 Q. Do you remember a bill being filed in the</p> <p>5 House in 2011 called S.B. 14?</p> <p>6 A. Well, not to be difficult in any way, but it</p> <p>7 wouldn't have been filed in the House if it was an S.B.</p> <p>8 Q. Sorry. Do you remember a bill -- well, what</p> <p>9 would it be?</p> <p>10 A. Well, it would have been -- it would have been</p> <p>11 a Senate bill, it would have come over to the House</p> <p>12 after having passed the Senate.</p> <p>13 Q. Do you remember a Senate bill coming over to</p> <p>14 the House after having passed the Senate that's called</p> <p>15 S.B. 14?</p> <p>16 A. I do.</p> <p>17 (Exhibit No. 441 marked)</p> <p>18 Q. (BY MS. BERKOWER) I have what's marked as</p> <p>19 Exhibit 441.</p> <p>20 A. Thank you.</p> <p>21 Q. Do you recognize this?</p> <p>22 A. Vaguely, yes.</p> <p>23 Q. What is it?</p> <p>24 A. It is Senate Bill No. 14 filed by</p> <p>25 Senator Frazier and others.</p>
<p style="text-align: center;">182</p> <p>1 part.</p> <p>2 Q. Do you know anyone who has become a US citizen</p> <p>3 as a child?</p> <p>4 A. I believe so.</p> <p>5 Q. Do you know if that person has ever had to</p> <p>6 retake the photograph on their naturalization</p> <p>7 certificate?</p> <p>8 A. I do not know.</p> <p>9 Q. If they didn't have to take -- retake the</p> <p>10 photograph on their naturalization certificate, would</p> <p>11 that photograph look the same when they were</p> <p>12 naturalized versus some decades later?</p> <p>13 MR. BRISSENDEN: Objection, calls for</p> <p>14 speculation. He's already answered that he does not</p> <p>15 know. Now you've gone one step further and asked him a</p> <p>16 follow-up question on what he already does not know.</p> <p>17 So I would instruct him --</p> <p>18 THE WITNESS: I don't know.</p> <p>19 Q. (BY MS. BERKOWER) Have you ever seen a triba</p> <p>20 identification?</p> <p>21 A. I do believe I have, yes, I think so.</p> <p>22 Q. What does it look like?</p> <p>23 A. I think they vary depending on the tribe.</p> <p>24 Q. Which one have you seen, if you remember?</p> <p>25 A. I don't.</p>	<p style="text-align: center;">184</p> <p>1 Q. Turning to page -- hold on a second. Turning</p> <p>2 to Page 3, Section 7, do you see that that section</p> <p>3 explains who must provide photographic identification</p> <p>4 at the polls?</p> <p>5 A. I think it's saying who they provide it to.</p> <p>6 Q. Okay.</p> <p>7 A. And then I guess it goes on and lists.</p> <p>8 Q. Do you see Line 14 on Page 4, Section G?</p> <p>9 A. I do.</p> <p>10 Q. And it says that the requirement for</p> <p>11 identification prescribed by Subsection B, it's</p> <p>12 referring to Section B above that, are not met, the</p> <p>13 voter may be accepted for provisional voting?</p> <p>14 A. Yes.</p> <p>15 MR. BRISSENDEN: Just so the record is</p> <p>16 clear, not to be difficult, Exhibit 441 is a version of</p> <p>17 S.B. 14 that has lines through it and edits. Do you</p> <p>18 have -- I think there has been an exhibit that he used</p> <p>19 before that's been signed.</p> <p>20 MS. BERKOWER: This is S.B. 14 as filed,</p> <p>21 and we have specific questions about the bill as filed,</p> <p>22 which is why we introduced that as an exhibit at this</p> <p>23 time.</p> <p>24 MR. BRISSENDEN: Very good.</p> <p>25 Q. (BY MS. BERKOWER) Turning to Page 5 of the</p>

<p style="text-align: center;">185</p> <p>1 bill, Part H at Line 4.</p> <p>2 A. Part H, Line 4, yes.</p> <p>3 Q. It says, "Requirements for identification</p> <p>4 described by Subsection B do not apply to a voter, one,</p> <p>5 who presents the voter registration certificate on</p> <p>6 offering to vote; and, two, 70 years of age or older on</p> <p>7 January 1st, 2012, as indicated by the date of birth on</p> <p>8 the voter registration certificate" (as read).</p> <p>9 Did I read that correctly?</p> <p>10 A. I believe you did.</p> <p>11 Q. Does that section mean that someone who is</p> <p>12 over age 70 and presents a voter registration card does</p> <p>13 not have to comply with the bill's identification</p> <p>14 requirements?</p> <p>15 MR. BRISSENDEN: I'm going to instruct</p> <p>16 you to the extent that you know the answer to that</p> <p>17 question based upon public record, based upon your</p> <p>18 review of the Exhibit 441, as you sit here today, you</p> <p>19 may answer to the extent that it requires you to</p> <p>20 disclose your mental impressions, thoughts, analysis,</p> <p>21 and impressions as to S.B. 14, and I instruct you not</p> <p>22 to answer.</p> <p>23 THE WITNESS: I'll follow his</p> <p>24 instruction.</p> <p>25 Q. (BY MS. BERKOWER) Well, I think he said -- to</p>	<p style="text-align: center;">187</p> <p>1 A. It says, "The following documentation is an</p> <p>2 acceptable form of photo identification under this</p> <p>3 chapter," and then it lists several.</p> <p>4 Q. Does it list only four types of photo</p> <p>5 identification that may be presented?</p> <p>6 A. It appears to -- well, yes, it appears to have</p> <p>7 four types, correct.</p> <p>8 Q. And one of those is a driver's license or</p> <p>9 personal identification card issued by DPS that has not</p> <p>10 expired. Is that accurate?</p> <p>11 A. That is accurate.</p> <p>12 Q. Another is United States military</p> <p>13 identification card that contains a person's photograph</p> <p>14 that has not expired. Is that accurate?</p> <p>15 A. It is.</p> <p>16 Q. The third is United States citizenship</p> <p>17 certificate that contains a photograph. Is that</p> <p>18 accurate?</p> <p>19 A. Yes.</p> <p>20 Q. Or a US passport that has not expired. Is</p> <p>21 that accurate?</p> <p>22 A. It is.</p> <p>23 Q. Is this bill different from -- are the</p> <p>24 requirements for photo ID in this bill different from</p> <p>25 that in S.B. 362 from the 2009 Legislature?</p>
<p style="text-align: center;">186</p> <p>1 be clear -- to be clear, just so I understand, does</p> <p>2 that mean that you cannot answer this question based</p> <p>3 solely on reading the language of the bill today?</p> <p>4 A. Well, I agreed with you on what the language</p> <p>5 said.</p> <p>6 Q. But the question I asked was, does this mean</p> <p>7 that a person who is 70 years of age or more who</p> <p>8 presents a voter registration certificate does not have</p> <p>9 to meet the other identification requirements, and you</p> <p>10 invoked legislative privilege. Is that accurate?</p> <p>11 A. That would be accurate.</p> <p>12 Q. So his instruction, though, said you should</p> <p>13 answer the question or you may answer the question if</p> <p>14 you could answer it based just on what's here in the</p> <p>15 document.</p> <p>16 A. I've already agreed with you on what the</p> <p>17 document says. I'm not arguing with you about what the</p> <p>18 document says.</p> <p>19 Q. Okay. Turning to Page 8, Section 63.0101,</p> <p>20 what does this section do?</p> <p>21 A. Documentation of proof of identification.</p> <p>22 Q. And does this section list the types of</p> <p>23 identifications that are acceptable photo</p> <p>24 identifications that a voter may present in order to</p> <p>25 vote at the polls?</p>	<p style="text-align: center;">188</p> <p>1 MR. BRISSENDEN: Are you referring the</p> <p>2 witness to another exhibit?</p> <p>3 Q. (BY MS. BERKOWER) Yes, I'm referring to</p> <p>4 exhibit --</p> <p>5 A. Is that 434? Is that it?</p> <p>6 Q. Yes.</p> <p>7 A. Okay.</p> <p>8 Q. Do you remember the question?</p> <p>9 A. Is it different, I believe, that you asked.</p> <p>10 Q. Yes.</p> <p>11 A. Yes. And give me one second. It appears</p> <p>12 there is some difference.</p> <p>13 Q. What are the differences?</p> <p>14 A. A difference would be that the driver's</p> <p>15 license in Senate Bill 14 that is required to not have</p> <p>16 expired, whereas in Senate Bill 362 the language says,</p> <p>17 "A driver's license from the Department of Public</p> <p>18 Safety that has not expired or that expired no earlier</p> <p>19 than two years before the date of presentation" (as</p> <p>20 read). So that's a difference.</p> <p>21 Q. Does it also require an unexpired military ID</p> <p>22 versus not including that requirement in 362?</p> <p>23 A. Well, you're correct except that I guess 362</p> <p>24 is silent on the issue of whether it can be expired or</p> <p>25 not. Where 14 specifically states it cannot be</p>

<p style="text-align: center;">189</p> <p>1 expired, 362 doesn't make it clear.</p> <p>2 Q. Does 362 permit federal or state issue photo</p> <p>3 ID; whereas, the S.B. 14 as filed does not?</p> <p>4 A. You are correct.</p> <p>5 Q. Does S.B. 362 permit non-photo identification</p> <p>6 in some circumstances; whereas, S.B. 14 as filed does</p> <p>7 not?</p> <p>8 A. That is correct.</p> <p>9 Q. Is it safe to say that S.B. 14 has fewer types</p> <p>10 of permissible identification than S.B. 362?</p> <p>11 A. It appears that would be correct in comparing</p> <p>12 them.</p> <p>13 Q. Is there any evidence in the public record in</p> <p>14 the time between when S.B. 362 was developed and the</p> <p>15 time that S.B. 14 was developed that indicated that</p> <p>16 fewer types of identifications should be accepted at</p> <p>17 the polls in order to ensure election integrity?</p> <p>18 A. I don't know.</p> <p>19 Q. Is it fair to say that S.B. 14 was</p> <p>20 substantially different from S.B. 362?</p> <p>21 MR. BRISSENDEN: Objection, vague.</p> <p>22 THE WITNESS: I don't know what</p> <p>23 "substantially" means.</p> <p>24 Q. (BY MS. BERKOWER) Is it fair to say there</p> <p>25 were a number of changes from S.B. 362 to S.B. 14?</p>	<p style="text-align: center;">191</p> <p>1 THE WITNESS: Senate Bill 362 appears to</p> <p>2 have six options and Senate Bill 14 appears to have</p> <p>3 four.</p> <p>4 Q. (BY MS. BERKOWER) Doesn't Senate Bill 362</p> <p>5 also have a number of nonphotographic identification</p> <p>6 options there as well?</p> <p>7 A. Certainly.</p> <p>8 Q. So would that be more than six options?</p> <p>9 A. Well, it would be more than six options that</p> <p>10 don't -- well, six options that require a photo and</p> <p>11 then there are others that do not.</p> <p>12 Q. So is it fair to say there are fewer -- fewer</p> <p>13 acceptable identification options for voters under</p> <p>14 S.B. 14?</p> <p>15 A. I'm certain that's easily said. I don't know</p> <p>16 where you need my expertise for that.</p> <p>17 Q. Okay. What is a military ID?</p> <p>18 A. I am not an expert on that. I would assume</p> <p>19 it's an ID issued to a member of the United States</p> <p>20 military.</p> <p>21 Q. Do you know how many different forms of</p> <p>22 military ID there are?</p> <p>23 A. I know there are several, but I don't know the</p> <p>24 number.</p> <p>25 Q. Do you know if military ID is issued to</p>
<p style="text-align: center;">190</p> <p>1 A. I would agree that there were changes.</p> <p>2 Q. Is it fair to say that S.B. 14 was stricter</p> <p>3 than S.B. 362?</p> <p>4 MR. BRISSENDEN: Objection, vague. And</p> <p>5 to the extent that the question is requiring the</p> <p>6 witness to disclose mental impressions, his opinions,</p> <p>7 his views about S.B. 14, I instruct him not to answer.</p> <p>8 Q. (BY MS. BERKOWER) Are you following your</p> <p>9 counsel's instruction?</p> <p>10 A. Do you mean repeating the question?</p> <p>11 Q. I said, is it fair to say that S.B. 14 is</p> <p>12 stricter than S.B. 362?</p> <p>13 MR. BRISSENDEN: Same objection and same</p> <p>14 instruction.</p> <p>15 THE WITNESS: I follow the instruction.</p> <p>16 Q. (BY MS. BERKOWER) Is it fair to say there are</p> <p>17 fewer options for voters to present identification</p> <p>18 under S.B. 14 as filed than S.B. 362?</p> <p>19 MR. BRISSENDEN: Objection, vague. To</p> <p>20 the extent that you can answer the question based upon</p> <p>21 your review of the two exhibits that are in front of</p> <p>22 you and the number of -- and comparing the two exhibits</p> <p>23 and the number of identifications listed there, you may</p> <p>24 answer. Otherwise, if you cannot, then I instruct you</p> <p>25 not to answer on the basis of privilege.</p>	<p style="text-align: center;">192</p> <p>1 noncitizens?</p> <p>2 A. I do not know.</p> <p>3 Q. Do you know if military ID is issued to</p> <p>4 contractors?</p> <p>5 A. I do not know.</p> <p>6 Q. If I've asked you this, I'm sorry. I don't</p> <p>7 remember. Do you know what a citizenship certificate</p> <p>8 is?</p> <p>9 A. Yeah, you did ask that, and I don't really</p> <p>10 know. Actually, you may have asked if I've seen one.</p> <p>11 I don't know if you asked me whether I know what one</p> <p>12 is.</p> <p>13 Q. Do you know what one is?</p> <p>14 A. I'm familiar with it, but I'm not --</p> <p>15 Q. Do you know how much it costs -- I'm sorry.</p> <p>16 A. Go ahead.</p> <p>17 Q. Do you know how much it costs to obtain one?</p> <p>18 A. I do not.</p> <p>19 Q. Do you know how much it costs to obtain a</p> <p>20 replacement citizenship certificate?</p> <p>21 A. I do not know.</p> <p>22 Q. Do you know what you would have to do to get a</p> <p>23 replacement citizenship certificate?</p> <p>24 A. I do not.</p> <p>25 Q. Do you know how long it would take to get a</p>

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1 replacement citizenship certificate?  
 2 A. I do not.  
 3 Q. Do you know if citizenship certificates always  
 4 contain a photograph?  
 5 A. I don't know.  
 6 Q. Do you know how much it cost to obtain a US  
 7 passport?  
 8 A. I don't know.  
 9 Q. Do you know what underlying documents you  
 10 would need to get a US passport?  
 11 A. I could guess, but I don't really know.  
 12 Q. Do you know how long it would take to get a  
 13 US passport?  
 14 A. I think the timeframe varies, but I don't know  
 15 absolutely.  
 16 Q. What does the term "legislative emergency"  
 17 mean within the Texas Legislature?  
 18 A. I believe there's a record or a document of  
 19 that. I can't quote it to you.  
 20 Q. Are there any -- who declares a legislative  
 21 emergency?  
 22 A. The governor.  
 23 Q. Are there any constraints on what he may  
 24 declare to be a legislative emergency?  
 25 A. I am not an expert on that part of the law and

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1 what's the procedure. But I don't believe there are  
 2 constraints, but I don't know.  
 3 Q. Was photographic voter ID declared to be a  
 4 legislative emergency for the 82nd Legislature?  
 5 A. I believe the record reflects that it was.  
 6 Q. When did you first learn about this  
 7 designation?  
 8 A. I don't recall. I would imagine within a day  
 9 or two of it being declared an emergency.  
 10 Q. Do you know why Governor Perry designated  
 11 voter ID as a legislative emergency?  
 12 MR. BRISSENDEN: I'm going to instruct  
 13 the witness not to divulge or disclose his thoughts or  
 14 mental analysis and questions about S.B. 14 and the  
 15 legislative act of -- in which the emergency -- the  
 16 legislation has deemed to be an emergency and instruct  
 17 the witness not to answer.  
 18 MS. BERKOWER: I asked if he knows why,  
 19 not why.  
 20 MR. BRISSENDEN: I don't believe that was  
 21 the question.  
 22 MS. BERKOWER: It was the question. I  
 23 just read it right off the screen. But can you read it  
 24 back, please?  
 25 MR. BRISSENDEN: Yes, ma'am. If the

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1 question is limited to whether the -- whether or not  
 2 the witness has knowledge as to why that allows him to  
 3 answer the question with a simple yes or no answer, he  
 4 may answer.  
 5 MS. BERKOWER: All right.  
 6 Q. (BY MS. BERKOWER) Do you need me to restate?  
 7 A. I believe the question is do I know why that  
 8 was done. And I do not.  
 9 Q. Do you know if any other election law has ever  
 10 been designated a legislative emergency?  
 11 A. I don't know.  
 12 Q. What other types of legislation do you know of  
 13 that were designated as legislative emergencies?  
 14 A. Off the top of my head, I don't recall. I  
 15 know there have been.  
 16 Q. Do you remember if any immigration-related  
 17 issues have been designated a legislative emergency?  
 18 A. No. I know there's a record. I don't -- I  
 19 don't know.  
 20 Q. What are the consequences of legislation being  
 21 designated an emergency?  
 22 A. They're rather insignificant, frankly. To the  
 23 best of my knowledge -- I could be inaccurate with the  
 24 fact to some degree. I'm not intending to be. But  
 25 it's simply their rules in the legislative process that

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1 you cannot bring a bill to the floor within the first  
 2 100 days. And the governor declaring something an  
 3 emergency simply allows that legislation to come before  
 4 the body in that first 100 days. It doesn't require  
 5 that it does and it simply means that it could.  
 6 Q. Basically it can jump the line?  
 7 A. No.  
 8 MR. BRISSENDEN: Objection to the extent  
 9 that it mischaracterizes testimony and the record.  
 10 Q. (BY MS. BERKOWER) I don't -- I don't know if  
 11 you said this or not, but after the governor declares a  
 12 legislative emergency, does that Legislature have to  
 13 consider the issue within the first 60 days?  
 14 A. It does not, and there is precedent to show  
 15 that we don't.  
 16 Q. But it may. It doesn't have to?  
 17 A. It allows it to.  
 18 Q. Do you know who was involved with the decision  
 19 to designate S.B. 14 as a legislative emergency?  
 20 A. I do not -- well, that's unfair. I have to  
 21 assume being the governor did it, he was. But beyond  
 22 that, I don't know.  
 23 Q. Did you follow S.B. 14 at all during its  
 24 progress through the Senate?  
 25 A. Vaguely, you know, just from an extraordinary

<p style="text-align: center;">197</p> <p>1 periphery of it.</p> <p>2 Q. Did -- what is your memory of its progress in</p> <p>3 the Senate just as far as the public record goes?</p> <p>4 A. I don't have much of one other than I was</p> <p>5 paying attention to it to know when I would have to</p> <p>6 then hold a hearing in the House.</p> <p>7 Q. Is that -- were you filing it because you were</p> <p>8 the chair of the select committee?</p> <p>9 A. No, because I don't even know if I was the</p> <p>10 chair of the select committee, at that point. I don't</p> <p>11 recall. And I wasn't following it closely. I think</p> <p>12 the -- well --</p> <p>13 Q. Did you attend any Senate hearings on S.B. 14?</p> <p>14 A. Not at all, no.</p> <p>15 Q. Did you have any conversations with senators</p> <p>16 about S.B. 14?</p> <p>17 A. I believe I had one that was brief letting me</p> <p>18 know that if I need any background --</p> <p>19 MR. BRISSENDEN: I'll instruct you that</p> <p>20 in terms of disclosing the substance of a</p> <p>21 communication, I'll instruct you not to disclose that</p> <p>22 communication that you had with the legislator.</p> <p>23 Q. (BY MS. BERKOWER) Who was the communication</p> <p>24 with?</p> <p>25 A. Senator Fraser.</p>	<p style="text-align: center;">199</p> <p>1 sponsor of the Senate Bill. There's a record we can</p> <p>2 look at.</p> <p>3 Q. Do you know how it came about that Ms. Harless</p> <p>4 was the main sponsor of the bill?</p> <p>5 MR. BRISSENDEN: And to the extent that</p> <p>6 you have information or knowledge that is part of the</p> <p>7 public record and you are relying upon that and you can</p> <p>8 answer that question, you may do so. To the extent</p> <p>9 that that question requires you to disclose</p> <p>10 communications that you had with other legislators,</p> <p>11 their staff, or your own staff, with Texas legislative</p> <p>12 counsel or state agencies or it requires you to</p> <p>13 disclose thoughts, opinions, and mental analysis with</p> <p>14 regards to S.B. 14, I instruct you not to answer.</p> <p>15 THE WITNESS: I will have to use</p> <p>16 privilege on that.</p> <p>17 MS. BERKOWER: I did ask that as a yes or</p> <p>18 no question. Will you still -- are you still going to</p> <p>19 interpose your objection to that? I asked if you</p> <p>20 know how -- I said, do you know how Senator Harless</p> <p>21 became the main sponsor.</p> <p>22 MR. BRISSENDEN: To the extent you can</p> <p>23 answer that question limited to whether you have</p> <p>24 knowledge or don't have knowledge, you can answer</p> <p>25 limited to a yes or no. But beyond that, I instruct</p>
<p style="text-align: center;">198</p> <p>1 Q. When did it take place?</p> <p>2 A. I don't recall exactly.</p> <p>3 Q. Was it early in the legislative session?</p> <p>4 A. Yes, it was early.</p> <p>5 Q. Do you remember if it was before the bill</p> <p>6 passed the Senate?</p> <p>7 A. I don't think so. I think it was there</p> <p>8 afterward. I think it was between the time it passed</p> <p>9 the Senate and we held the hearing in the House. And</p> <p>10 it was a very brief conversation.</p> <p>11 Q. And I guess I should have specified this</p> <p>12 before. When I asked about communications with</p> <p>13 legislators I also should have asked you, did you have</p> <p>14 any communications with the staff members of</p> <p>15 legislators concerning S.B. 14?</p> <p>16 A. I don't think I did, actually.</p> <p>17 Q. Who were the sponsors of S.B. 14 in the House?</p> <p>18 A. There's record of that. I -- I think it ended</p> <p>19 up being numerous members.</p> <p>20 Q. I'm sorry. Who?</p> <p>21 A. I said I think it ended up being numerous</p> <p>22 members. There's a record. I don't off the top of my</p> <p>23 head recall.</p> <p>24 Q. Do you remember who any of the sponsors were?</p> <p>25 A. I know Representative Harless was the House</p>	<p style="text-align: center;">200</p> <p>1 you not to answer.</p> <p>2 THE WITNESS: I was provided anecdotal</p> <p>3 information, but I don't know if it's accurate.</p> <p>4 Q. (BY MS. BERKOWER) Okay. Where was the bill</p> <p>5 sent when it arrived in the House?</p> <p>6 A. Again, that would be part of the record. I</p> <p>7 assume it was sent to the select committee, but I'm not</p> <p>8 certain. But we can check the record in that.</p> <p>9 Q. That was the committee we talked about</p> <p>10 earlier?</p> <p>11 A. Yes, ma'am.</p> <p>12 Q. Did the special committee hold any hearings?</p> <p>13 A. It held one.</p> <p>14 Q. Did witnesses provide testimony at that</p> <p>15 hearing?</p> <p>16 A. Yes, they did.</p> <p>17 Q. Do you remember who provided testimony?</p> <p>18 A. Again, the record would have the witness list,</p> <p>19 and it would show us everybody who testified.</p> <p>20 Q. Do you remember if somebody named</p> <p>21 Skipper Wallace testified?</p> <p>22 A. Do I specifically remember that? No. My</p> <p>23 guess would be he did.</p> <p>24 Q. Do you remember what he said?</p> <p>25 A. Not at all.</p>

<p style="text-align: center;">201</p> <p>1 Q. Have you ever met or spoken with him?</p> <p>2 A. Absolutely.</p> <p>3 Q. Yes?</p> <p>4 A. Yes.</p> <p>5 Q. What have you talked about with</p> <p>6 Skipper Wallace with regard to voter identification?</p> <p>7 MR. BRISSENDEN: Can we take a break just</p> <p>8 a minute?</p> <p>9 MS. BERKOWER: Sure. Well, can he answer</p> <p>10 the question first? I guess there's a question</p> <p>11 pending.</p> <p>12 MR. BRISSENDEN: Well, it depends on --</p> <p>13 it depends on his answer to my question real quick.</p> <p>14 And it will help -- it will help make the flow go a lot</p> <p>15 quicker.</p> <p>16 MS. BERKOWER: So you're saying you want</p> <p>17 to consult with him about a privilege issue? Is that</p> <p>18 what you're getting at?</p> <p>19 MR. BRISSENDEN: Yes. Well, it could</p> <p>20 potentially implicate a privilege issue.</p> <p>21 MS. BERKOWER: All right. Let's take</p> <p>22 a --</p> <p>23 MR. BRISSENDEN: We just need two</p> <p>24 minutes, yeah.</p> <p>25 MS. BERKOWER: Yeah. I mean, my</p>	<p style="text-align: center;">203</p> <p>1 A. I mean, I -- yeah, sure. He was for it. I</p> <p>2 mean --</p> <p>3 Q. Do you remember what he testified about</p> <p>4 concerning S.B. 14?</p> <p>5 A. I really don't remember specifically.</p> <p>6 Q. You said you've met and spoken with him</p> <p>7 before?</p> <p>8 A. I have.</p> <p>9 Q. What was -- when did you meet with him?</p> <p>10 A. I met with him during the last legislative</p> <p>11 session. I think it's in the documents you-all</p> <p>12 received today. And I met with him very briefly and</p> <p>13 told him that his assistance and help was not needed to</p> <p>14 pass Senate Bill 14.</p> <p>15 Q. What type of help and assistance did he want</p> <p>16 to provide you?</p> <p>17 A. I didn't bother to find out.</p> <p>18 Q. Okay. Did you ever solicit any help from</p> <p>19 Skipper Wallace?</p> <p>20 A. Not at all.</p> <p>21 Q. Do you know who Katherine Engelbrecht is?</p> <p>22 A. I do simply because I was shown a document</p> <p>23 that her name was on.</p> <p>24 Q. Who is she?</p> <p>25 A. Otherwise, I wouldn't have known who she was.</p>
<p style="text-align: center;">202</p> <p>1 understanding is that the reason -- my concern is that</p> <p>2 Skipper Wallis is -- is not a legislator. He is not</p> <p>3 well.</p> <p>4 MR. BRISSENDEN: Well, that's -- let's --</p> <p>5 let me just find that out and then let's -- we'll</p> <p>6 reconvene this.</p> <p>7 MS. BERKOWER: Okay. That's fine.</p> <p>8 MR. BRISSENDEN: Give me just a minute.</p> <p>9 Recess.</p> <p>10 (Discussion off the record)</p> <p>11 MR. BRISSENDEN: Thank you for allowing</p> <p>12 me to take a break. I was not aware of who Mr. Wallace</p> <p>13 was. I was just trying to make sure that it wasn't</p> <p>14 something that would invoke privilege.</p> <p>15 THE WITNESS: And it doesn't, so let's</p> <p>16 go.</p> <p>17 Q. (BY MS. BERKOWER) So who is Skipper Wallace?</p> <p>18 A. To the best of my knowledge, I believe he is a</p> <p>19 Republican party chair who was the head of his -- not</p> <p>20 to make a joke. I guess there was an organization of</p> <p>21 the Republican party chairs, and was the head of that.</p> <p>22 A very, very prestigious position.</p> <p>23 Q. Do you know if he supported S.B. 14?</p> <p>24 A. Oh, I'm sure that he did.</p> <p>25 Q. Well, do you remember his position on S.B. 14?</p>	<p style="text-align: center;">204</p> <p>1 Q. Who is she?</p> <p>2 A. She's is the leader of the King Street</p> <p>3 Patriots, which is a group out of Houston.</p> <p>4 Q. What do the King Street Patriots do?</p> <p>5 A. I really don't know. I guess they're a</p> <p>6 citizen active grassroots-type organization.</p> <p>7 Q. Do you know if she attended the special</p> <p>8 committee hearing?</p> <p>9 A. That I do not know. If I had to take a guess,</p> <p>10 I would think she or someone from her group did. But I</p> <p>11 don't know because I don't know who she is.</p> <p>12 Q. Do you remember if she participated at all</p> <p>13 during that -- during that hearing?</p> <p>14 A. I don't recall. But, again, it would be in</p> <p>15 the record if she did.</p> <p>16 Q. Have you ever met or spoken with her?</p> <p>17 A. I want to be very clear with this. I have</p> <p>18 not. I was shown a document this morning that showed</p> <p>19 that she was on my schedule to meet with a member of my</p> <p>20 staff. I did not meet with her. And so there is</p> <p>21 clarity on that. There is a document that shows that</p> <p>22 she had a meeting scheduled with a member of my staff.</p> <p>23 I was not present at that meeting and I have never, to</p> <p>24 my knowledge, met the woman.</p> <p>25 Q. Did your staff relay any information to you</p>

<p style="text-align: center;">205</p> <p>1 that they received from Ms. Engelbrecht?</p> <p>2 A. I believe that they did.</p> <p>3 Q. What was that information?</p> <p>4 A. She wants you to pass better ID.</p> <p>5 Q. What -- other than her opinion, was there</p> <p>6 anything else she provided to your office?</p> <p>7 A. Not at all.</p> <p>8 Q. Did she -- do you know of anymore details of</p> <p>9 why she supported the bill?</p> <p>10 A. I have no idea.</p> <p>11 Q. And I guess something I should have asked you</p> <p>12 earlier --</p> <p>13 A. Sure.</p> <p>14 Q. -- do you approve all of the correspondence</p> <p>15 that goes out of your office?</p> <p>16 A. I'm probably not perfect at that, no.</p> <p>17 Q. Do you as a general matter try to approve the</p> <p>18 correspondence that goes out of your office?</p> <p>19 A. Not all of it. Most of it.</p> <p>20 Q. How do you decide what to approve and what not</p> <p>21 to approve?</p> <p>22 A. It's usually probably based on time or</p> <p>23 importance.</p> <p>24 Q. Do you usually review constituents'</p> <p>25 communications with your office?</p>	<p style="text-align: center;">207</p> <p>1 A. It -- it would depend. It would most likely</p> <p>2 be Shera Eichler, my chief of staff. But it may also</p> <p>3 be the staff member who's dealing with that</p> <p>4 correspondence.</p> <p>5 Q. Have you ever had communications with</p> <p>6 Ms. Eichler -- like do you have a general policy with</p> <p>7 her on how to respond to communications when you're not</p> <p>8 able to review them before they go out?</p> <p>9 A. Yes.</p> <p>10 Q. What is that policy?</p> <p>11 A. Answer their question.</p> <p>12 Q. Based on what?</p> <p>13 A. The facts.</p> <p>14 Q. Will she -- if you're not able to review a</p> <p>15 particular piece of correspondence, will she ask you</p> <p>16 questions to get your views on a particular issue?</p> <p>17 MR. BRISSENDEN: Objection to the extent</p> <p>18 the question calls for speculation.</p> <p>19 Q. (BY MS. BERKOWER) You may answer.</p> <p>20 MR. BRISSENDEN: If you know.</p> <p>21 THE WITNESS: It just depends.</p> <p>22 Q. (BY MS. BERKOWER) Has that happened?</p> <p>23 A. Has what happened?</p> <p>24 Q. Where you weren't able, due to time pressure,</p> <p>25 to review a particular piece of --</p>
<p style="text-align: center;">206</p> <p>1 A. Most usually, but not always.</p> <p>2 Q. Do you remember if you reviewed constituent</p> <p>3 communications concerning voter identification</p> <p>4 legislation?</p> <p>5 A. I probably reviewed some, but not all.</p> <p>6 Q. If there -- do you ever have form letters that</p> <p>7 you send to respond to constituents?</p> <p>8 A. Not really. And -- let me explain. Many</p> <p>9 times -- I try not to send form letters, but many times</p> <p>10 there's only so many responses or so many different</p> <p>11 variations of response, so letters become somewhat of a</p> <p>12 form letter. But usually we try to be very specific to</p> <p>13 questions and not create a -- we do not have a practice</p> <p>14 of creating a boilerplate form letter that is simply</p> <p>15 sent generally to any question.</p> <p>16 Q. Would you say there is some repetition in</p> <p>17 language?</p> <p>18 A. Oh, absolutely, yes.</p> <p>19 Q. And do you approve that type of language</p> <p>20 that's going to be going out in more than one piece of</p> <p>21 correspondence?</p> <p>22 A. Usually I do, but there's certainly been times</p> <p>23 where it has happened and I did not.</p> <p>24 Q. Who is responsible for those communications if</p> <p>25 you're not approving them?</p>	<p style="text-align: center;">208</p> <p>1 A. Yes, that has happened and something has gone</p> <p>2 out and I didn't review it. Yes, that has happened.</p> <p>3 Q. And has, in those circumstances, Ms. Eichler</p> <p>4 spoken with you --</p> <p>5 A. It may not have been her. I want to be clear.</p> <p>6 It may not have only been with her. It could have</p> <p>7 been with --</p> <p>8 Q. Will someone in your office speak with you</p> <p>9 generally about the correspondence to get your approval</p> <p>10 if you're not able to review it personally?</p> <p>11 A. Usually, yes, but not always.</p> <p>12 Q. Do you know of any times where you have</p> <p>13 neither been able to review the correspondence nor been</p> <p>14 able to speak with a staff person before it went out?</p> <p>15 A. Specifically, no, but I know it's happened.</p> <p>16 Q. Do you know if that happened with regard to</p> <p>17 any correspondence concerning voter ID legislation?</p> <p>18 A. Again, specifically, I don't know, but I</p> <p>19 actually believe it probably has because at times we</p> <p>20 receive more than not.</p> <p>21 Q. When S.B. 14 was heard by your committee, did</p> <p>22 you publicly state that the bill was too weak?</p> <p>23 A. I don't know. I may have.</p> <p>24 Q. Do you ever produce anything called an</p> <p>25 Insider's Report?</p>

<p style="text-align: center;">209</p> <p>1 A. Absolutely.</p> <p>2 Q. What is that?</p> <p>3 A. It is an e-mail newsletter that I send to</p> <p>4 constituents in my district.</p> <p>5 Q. Do you write that personally?</p> <p>6 A. No.</p> <p>7 Q. Who writes that?</p> <p>8 A. My staff.</p> <p>9 Q. Would that be Ms. Eichler?</p> <p>10 A. It really varies.</p> <p>11 Q. Do they speak with you about the contents of</p> <p>12 the report?</p> <p>13 A. Sure.</p> <p>14 Q. Do you review it before it goes out?</p> <p>15 A. Not always, but usually.</p> <p>16 Q. I have something that -- I think it's going to</p> <p>17 be Exhibit 441.</p> <p>18 A. I think you're right.</p> <p>19 (Exhibit No. 442 marked)</p> <p>20 THE WITNESS: Oh, I'm sorry. No, it's</p> <p>21 not 441.</p> <p>22 Q. (BY MS. BERKOWER) No, I'm sorry. 442. Thank</p> <p>23 you for the correction. 442.</p> <p>24 Do you recognize this?</p> <p>25 A. I guess.</p>	<p style="text-align: center;">211</p> <p>1 privileged acts by legislators.</p> <p>2 MR. BRISSSENDEN: That is my understanding</p> <p>3 of the court's order, although the court states on</p> <p>4 Page 6 of the order issued yesterday that although the</p> <p>5 communications are not privileged, questioning a</p> <p>6 legislator or staff about the communication that would</p> <p>7 require him to reveal his thought processes and his</p> <p>8 subjective motivations about S.B. 14 or any legislative</p> <p>9 activity with respect to the law are -- apply to</p> <p>10 privilege.</p> <p>11 So based upon that, the court's order</p> <p>12 there, I'm instructing the witness not to answer the</p> <p>13 question about his opinions and views as stated in the</p> <p>14 question.</p> <p>15 MS. BERKOWER: Okay. Well, I think</p> <p>16 that -- I'm not sure you heard my question correctly</p> <p>17 because this was more of a question generally about the</p> <p>18 creation of the Insider's Report, not anything specific</p> <p>19 to any legislation, not anything specific to any voter</p> <p>20 identification legislation, but merely a matter of</p> <p>21 whether it's fair to say that when Mr. Bonnen -- or</p> <p>22 Representative Bonnen produces his Insider's Report and</p> <p>23 distributes it as a newsletter to his constituents that</p> <p>24 it can be fairly characterized as expressing his views</p> <p>25 on what is happening in the Legislature.</p>
<p style="text-align: center;">210</p> <p>1 Q. What is it?</p> <p>2 A. Well, the printing looks a little different,</p> <p>3 but I assume it is my Insider's Report.</p> <p>4 Q. What's the date on it?</p> <p>5 A. March 6th of 2011.</p> <p>6 Q. Is there a section that talks about voter</p> <p>7 identification legislation?</p> <p>8 A. Yes, there is.</p> <p>9 Q. That -- reading from that section, you say,</p> <p>10 "As the chair of" -- and is it fair to say that reading</p> <p>11 from this is more or less stating your views or</p> <p>12 expressing your views?</p> <p>13 MR. BRISSSENDEN: I'm going to object to</p> <p>14 the extent that the question of the witness -- that</p> <p>15 would require him to reveal his opinions, motivations,</p> <p>16 mental thought processes about S.B. 14. I would</p> <p>17 instruct the witness not to answer.</p> <p>18 MS. BERKOWER: All I asked is whether the</p> <p>19 newsletter, the Insider's Report, as a general matter</p> <p>20 can be characterized as expressing his views on</p> <p>21 whatever its contents contain. You're objecting to</p> <p>22 that?</p> <p>23 MR. BRISSSENDEN: That is correct.</p> <p>24 MS. BERKOWER: Newsletters and other</p> <p>25 similar types of political communications are not</p>	<p style="text-align: center;">212</p> <p>1 MR. BRISSSENDEN: And my response would</p> <p>2 be, first of all, that was not the question that you</p> <p>3 phrased. And, secondly, the paragraph that you're</p> <p>4 quoting from makes specific reference to S.B. 14.</p> <p>5 MS. BERKOWER: I didn't quote. I didn't</p> <p>6 quote. I restarted the question and said, as a general</p> <p>7 matter do those newsletters reflect -- or can they be</p> <p>8 characterized as expressing your views on what's going</p> <p>9 on in the House. Will you accept that question?</p> <p>10 MR. BRISSSENDEN: If the question is, do</p> <p>11 these reports, as a general matter, typically reflect</p> <p>12 your communication as to what is going on in the House,</p> <p>13 I'll allow that -- I'll allow him to answer.</p> <p>14 Q. (BY MS. BERKOWER) Do these Insider's Reports</p> <p>15 as a general matter -- is it fair to characterize them</p> <p>16 as expressing your views on what's going on in the</p> <p>17 House?</p> <p>18 A. I guess, yes.</p> <p>19 Q. So turning your attention to the section</p> <p>20 entitled "Voter Identification Legislation" --</p> <p>21 A. Yes.</p> <p>22 Q. -- you wrote, "My committee is working to</p> <p>23 strengthen the voter ID bill, S.B. 14, that was passed</p> <p>24 in the Senate and contained exception, but</p> <p>25 substantially weakened the effectiveness of the bill!"</p>

<p style="text-align: center;">213</p> <p>1 (as read).</p> <p>2 Is that accurate?</p> <p>3 A. It's accurate that that's what it reads.</p> <p>4 Q. Did your committee then modify S.B. 14?</p> <p>5 A. I don't remember. I think -- and there's a</p> <p>6 record of all of it. I think Representative Harless</p> <p>7 may have brought in a committee substitute that may</p> <p>8 have changed the bill, but I'm not positive whether we</p> <p>9 did that or not.</p> <p>10 Q. I have what's going to be marked as</p> <p>11 Exhibit 443.</p> <p>12 (Exhibit No. 443 marked)</p> <p>13 Q. (BY MS. BERKOWER) Do you know what this is?</p> <p>14 A. It appears to be the House Journal.</p> <p>15 Q. What day is it the House Journal from?</p> <p>16 A. Monday, March the 21st of 2011.</p> <p>17 Q. Were you present that day?</p> <p>18 A. It appears the record reflects that I was</p> <p>19 present.</p> <p>20 Q. Do you know if S.B. 14 was considered on that</p> <p>21 day?</p> <p>22 A. I do not know, but I'll look further in the</p> <p>23 journal and find out.</p> <p>24 Q. Will you turn to Page 910?</p> <p>25 A. Okay. It appears that the committee's</p>	<p style="text-align: center;">215</p> <p>1 that you're able to answer that question relying solely</p> <p>2 upon what's been represented in the public record, you</p> <p>3 may answer. To the extent that you have information or</p> <p>4 knowledge beyond public record that is part of your</p> <p>5 knowledge or thoughts and opinions with regards to</p> <p>6 legislation, I instruct you not to answer.</p> <p>7 MS. BERKOWER: Well, I asked with regards</p> <p>8 to the public record. He said --</p> <p>9 THE WITNESS: Well --</p> <p>10 Q. (BY MS. BERKOWER) Sorry?</p> <p>11 A. Go ahead.</p> <p>12 Q. Unless you need clarification.</p> <p>13 A. Then go ahead and clarify.</p> <p>14 Q. I heard a quote from Representative Anchia</p> <p>15 that says he's "studied this thing for eight years now,</p> <p>16 almost six years, seven years actually, and we haven't</p> <p>17 been able to find much said voter impersonation." And</p> <p>18 I said, "Is this true based on the evidence in the</p> <p>19 public record?"</p> <p>20 A. And I don't believe Representative Anchia is</p> <p>21 the authority on this, and I don't agree with it.</p> <p>22 Q. Well, based on the public record, what is in</p> <p>23 there to discredit his statement that there isn't much</p> <p>24 voter fraud or voter impersonation?</p> <p>25 A. I don't have the record in front of me, but I</p>
<p style="text-align: center;">214</p> <p>1 substitute to S.B. 14 was heard on the second reading.</p> <p>2 Q. Turning your attention now to Page 911, do you</p> <p>3 see that there is an exchange there between</p> <p>4 Representative Anchia and Representative Harless?</p> <p>5 A. It appears there was.</p> <p>6 Q. Are we still on Page 911?</p> <p>7 A. Yes, ma'am.</p> <p>8 Q. Okay. Do you see there is a paragraph --</p> <p>9 well, the third entry from the bottom,</p> <p>10 Representative Anchia says, "We have studied this thing</p> <p>11 for eight years now -- almost six years -- seven years,</p> <p>12 actually, and we haven't been able to find much said</p> <p>13 voter impersonation" (as read).</p> <p>14 Do you see that?</p> <p>15 A. Actually, I don't.</p> <p>16 Q. It's the section that Anchia says, "Are you</p> <p>17 sure?"</p> <p>18 A. Okay.</p> <p>19 Q. And then about two lines down from there.</p> <p>20 A. Okay. I see it now.</p> <p>21 Q. Based on the evidence in the public record, is</p> <p>22 that accurate?</p> <p>23 A. I don't think it is.</p> <p>24 Q. Why not?</p> <p>25 MR. BRISSENDEN: Again, to the extent</p>	<p style="text-align: center;">216</p> <p>1 believe there are pieces of information in the record.</p> <p>2 I think the fact of the record we read earlier about</p> <p>3 the testimony from Jay Dyer of the Attorney</p> <p>4 General's -- from the Attorney General's office, where</p> <p>5 I go back to that exhibit -- I believe there were a</p> <p>6 couple hundred cases that were being dealt with.</p> <p>7 Q. I think it's 267 cases --</p> <p>8 A. That sounds right.</p> <p>9 Q. -- that was referred to the --</p> <p>10 A. Attorney General's office.</p> <p>11 Q. -- Attorney General's, with 35 convictions,</p> <p>12 dismissals and/or plea agreements, and 12 ongoing</p> <p>13 cases?</p> <p>14 A. I think there was more than that or there</p> <p>15 wasn't clarity on the rest. But, yes, that sounds</p> <p>16 reasonably accurate.</p> <p>17 Q. Other than that, do you know of any other</p> <p>18 examples of voter impersonation in the public record?</p> <p>19 A. I believe there are others. I don't have any</p> <p>20 in front of me.</p> <p>21 MR. BRISSENDEN: Just so the record is</p> <p>22 clear, the record that the witness is referring to is,</p> <p>23 I believe, Exhibit 438.</p> <p>24 THE WITNESS: 267 incidences of alleged</p> <p>25 illegal voting is defined by Section 64.012 of the</p>

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1 Texas Election Code. 35 of those alleged violations  
 2 have been resolved with guilty pleas, dismissals or  
 3 plea agreements. 12 cases remain active and the  
 4 remainder of the cases are still -- either still being  
 5 investigated or the statute of limitations has expired.  
 6 So --  
 7 Q. (BY MS. BERKOWER) And that's you reading from  
 8 the exhibit --  
 9 A. Correct.  
 10 Q. -- that your counsel just mentioned?  
 11 A. That is, yes, ma'am.  
 12 So for that reason and others, I do not  
 13 agree with Mr. Anchia's statement.  
 14 Q. Have you ever during your time on the  
 15 elections committee or the special select committee  
 16 heard evidence concerning mail-in ballot fraud?  
 17 MR. BRISSENDEN: Again, the question, I  
 18 believe, as phrased, is limited to what is in the  
 19 public record?  
 20 Q. Yes.  
 21 A. I believe we have.  
 22 Q. Do you remember what that evidence was?  
 23 A. I do not. And I don't know if we heard much  
 24 specific evidence.  
 25 Q. Does S.B. 14 address mail-in ballot fraud, to

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1 your knowledge?  
 2 A. I don't believe it does.  
 3 Q. Does any of the predecessor legislation we've  
 4 discussed today, S.B. 362, or HB 1706, or S.B. 218  
 5 address mail-in ballot fraud?  
 6 MR. BRISSENDEN: Objection, compound.  
 7 Q. (BY MS. BERKOWER) Do you understand the  
 8 question?  
 9 Does S.B. 362 address mail-in ballot  
 10 fraud?  
 11 A. I don't understand the relevance.  
 12 Q. Well, I don't --  
 13 MR. BRISSENDEN: Do the best you can and  
 14 answer the question.  
 15 THE WITNESS: No, I do not believe that  
 16 they do.  
 17 Q. (BY MS. BERKOWER) Did H.B. 1706 address  
 18 mail-in ballot fraud?  
 19 A. Which one -- or which one is 1706?  
 20 Q. That was the first one we discussed today.  
 21 A. I don't believe it did.  
 22 Q. Did HB 218 address mail-in ballot fraud? That  
 23 was the second --  
 24 A. I don't think the intention of that bill was  
 25 to address mail-in ballot fraud.

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1 Q. Did any of the legislation that you introduced  
 2 that we've discussed today address mail-in ballot  
 3 fraud?  
 4 A. I never suggested that it would have.  
 5 Q. In your memory of the public record, is there  
 6 more evidence of mail-in ballot fraud versus in-person  
 7 ballot fraud?  
 8 A. I don't remember exactly, but I don't believe  
 9 there was.  
 10 Q. Do you think there was more evidence in the  
 11 public record of in-person voter fraud than mail-in  
 12 ballot fraud?  
 13 A. I believe there was. For the periods in which  
 14 the bills were being heard, that was the issue, was  
 15 in-person voter fraud.  
 16 Q. What do you mean by that?  
 17 A. I mean that we were hearing bills that  
 18 addressed the issue of voting with photo ID and were  
 19 not addressing an issue of mail-in voter fraud, which  
 20 is certainly an issue that can be addressed.  
 21 Q. Just so I understand, are you saying that if  
 22 mail-in voter fraud were a bigger problem than  
 23 in-person voter fraud, you would likely have heard more  
 24 bills about mail-in voter fraud?  
 25 A. Not at all.

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1 MR. BRISSENDEN: Object.  
 2 A. That's not what I'm saying.  
 3 MS. BERKOWER: I'm just trying to  
 4 understand his testimony.  
 5 THE WITNESS: Well, my testimony is that  
 6 we heard testimony on the issue we were hearing. And  
 7 the issue we were hearing was on voter identification  
 8 and in-person voter fraud or fraud in voter rolls. Not  
 9 legislation and issues dealing with voter mail-in  
 10 fraud. It's a separate issue. Was it raised? Yes.  
 11 Q. (BY MS. BERKOWER) Wasn't the interim charge  
 12 in 2010 to examine the presence of fraud in Texas  
 13 elections?  
 14 MR. BRISSENDEN: Are you referring to a  
 15 prior exhibit?  
 16 MS. BERKOWER: Your Honor, I'm sorry. I  
 17 don't have the number in front of me. But I think --  
 18 THE WITNESS: Yeah, it's right here.  
 19 MS. BERKOWER: -- should have it.  
 20 MR. BRISSENDEN: 438.  
 21 THE WITNESS: It very well could have  
 22 been, but none of the bills that we ever heard a  
 23 hearing on dealt with that issue.  
 24 Q. (BY MS. BERKOWER) Okay. But I think you have  
 25 the exhibit in front of you now. Do you --

<p style="text-align: center;">229</p> <p>1 information that you have in terms of the thought</p> <p>2 processes as part of your analysis of S.B. 14, I would</p> <p>3 request that you not disclose that.</p> <p>4 Also, do not disclose communications that</p> <p>5 you have had with state agencies and with legislators,</p> <p>6 their staff or your staff, or Texas Legislative</p> <p>7 Council. To extent that you can answer the question</p> <p>8 without disclosing that, you may answer.</p> <p>9 THE WITNESS: Do you mind repeating?</p> <p>10 (The requested portion was read)</p> <p>11 MR. BRISSENDEN: Same objection, same</p> <p>12 instruction.</p> <p>13 THE WITNESS: I would only be able to</p> <p>14 speculate.</p> <p>15 Q. (BY MS. BERKOWER) When you sponsor a bill and</p> <p>16 a state agency conducts an analysis of the bill, are</p> <p>17 you informed of that analysis?</p> <p>18 MR. BRISSENDEN: Same objection, same</p> <p>19 instruction. Do not disclose communications that you</p> <p>20 have had with state agencies and -- including Texas</p> <p>21 Legislative Council and the Secretary of State's</p> <p>22 office.</p> <p>23 To the extent you are able to answer that</p> <p>24 question that does not pertain to communications</p> <p>25 that -- from those agencies that relate to specific</p>	<p style="text-align: center;">231</p> <p>1 debate on the floor.</p> <p>2 Q. You were present every day, though, or you</p> <p>3 were present during the debate?</p> <p>4 A. You asked if I was involved in the debate.</p> <p>5 You didn't ask if I was present. You asked if I was</p> <p>6 involved.</p> <p>7 Q. Did you offer amendments?</p> <p>8 A. I did, I think one or two. Again, it's all in</p> <p>9 the record. It will be there.</p> <p>10 I think we're at 444.</p> <p>11 (Exhibit No. 444 marked)</p> <p>12 Q. (BY MS. BERKOWER) Actually, this is such a</p> <p>13 lengthy exhibit I only --</p> <p>14 A. Sure.</p> <p>15 Q. -- have one, if you don't mind sharing.</p> <p>16 A. No problem.</p> <p>17 Q. Can you turn your attention --</p> <p>18 A. May I make a comment? I don't mean to be</p> <p>19 difficult at all. I mean, when you ask if I was</p> <p>20 involved, I take that to mean whether I am</p> <p>21 participated. Obviously I was there, so I'm not</p> <p>22 suggesting I wouldn't have been there. I take that</p> <p>23 more as a question of whether I actually was at the</p> <p>24 front of that mic making an argument.</p> <p>25 Q. Okay. Thank you for that clarification.</p>
<p style="text-align: center;">230</p> <p>1 legislation but more in terms a general procedure --</p> <p>2 MS. BERKOWER: Which is exactly what I</p> <p>3 asked.</p> <p>4 MR. BRISSENDEN: Please let me finish.</p> <p>5 -- you may answer that question.</p> <p>6 THE WITNESS: No. There is no</p> <p>7 requirement or absolute that you would.</p> <p>8 MS. BERKOWER: I think the lengthy</p> <p>9 objection, I'm not -- I need to just -- need to restart</p> <p>10 this.</p> <p>11 Q. (BY MS. BERKOWER) As a general matter, as a</p> <p>12 general practice, if a state agency conducts an</p> <p>13 analysis of a bill of which you are the sponsor, are</p> <p>14 you generally informed of that analysis?</p> <p>15 MR. BRISSENDEN: My same instruction.</p> <p>16 THE WITNESS: The answer is no, you would</p> <p>17 not absolutely be informed. Let me clarify. I don't</p> <p>18 believe that the Secretary of State's office conducted</p> <p>19 an analysis of the bill.</p> <p>20 Q. (BY MS. BERKOWER) Did you participate in the</p> <p>21 House floor debate on the bill?</p> <p>22 A. Sure. I'm sure I did. I think it was</p> <p>23 limited.</p> <p>24 Q. Why -- what do you mean "it was limited"?</p> <p>25 A. Well, I mean, I wasn't deeply involved in the</p>	<p style="text-align: center;">232</p> <p>1 Can you turn your attention to Page 961,</p> <p>2 please.</p> <p>3 A. Yes.</p> <p>4 Q. Do you see Amendment 7?</p> <p>5 A. Amendment No. 7, yes, ma'am.</p> <p>6 Q. Were you one of the sponsors of this</p> <p>7 amendment?</p> <p>8 A. It appears I was, yes.</p> <p>9 Q. What did this amendment do?</p> <p>10 A. Let me look. Amendment to Committee</p> <p>11 Substitute 14, Section 9 of the bill, added Section</p> <p>12 63.001(h), Election Code (page 6, lines 17-21), by</p> <p>13 striking the following: Was 70 years of age or older</p> <p>14 on January 1 of 2012 as indicated by the date of birth</p> <p>15 on the voters registration certificate; or (2)."</p> <p>16 Q. So would this provision have removed the</p> <p>17 exemption for individuals over 70 years of age from</p> <p>18 having to show one of the required forms of</p> <p>19 identification under S.B. 14?</p> <p>20 A. I believe that's correct.</p> <p>21 Q. What was the purpose of that amendment?</p> <p>22 MR. BRISSENDEN: I'm going to instruct</p> <p>23 the witness not to close his opinions, analysis, and</p> <p>24 thoughts and mental impressions about this amendment</p> <p>25 and the legislation, and instruct him not to answer.</p>

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1 THE WITNESS: Follow his instruction.  
 2 Q. (BY MS. BERKOWER) Are you aware of any  
 3 testimony on the public record expressing concerns that  
 4 some elderly voters might not be able to access -- may  
 5 not be able to obtain the required documentation under  
 6 S.B. 14?  
 7 MR. BRISSENDEN: Objection to the extent  
 8 that it mischaracterizes testimony in the record.  
 9 But you can answer.  
 10 THE WITNESS: I'm aware of public  
 11 testimony that people over 71 had to show ID.  
 12 Q. (BY MS. BERKOWER) I'm sorry?  
 13 A. That people over 71 had to show ID.  
 14 Q. Are you aware of any testimony that expresses  
 15 concerns that some minority voters over the age of 70  
 16 would be unable to obtain appropriate identification  
 17 due to prior discrimination?  
 18 A. No.  
 19 Q. Do you recall Representative Veasey raising  
 20 the concern that some elderly minority voters were not  
 21 born in public hospitals because they were not allowed  
 22 to at the time that they were born, and so they don't  
 23 have access to birth certificates the same way other  
 24 voters may have?  
 25 MR. BRISSENDEN: Objection to the extent

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1 that the testimony mischaracterizes prior testimony in  
 2 the record.  
 3 You may answer.  
 4 THE WITNESS: I don't remember.  
 5 Q. (BY MS. BERKOWER) Turning your attention to  
 6 Amendment 15 at Page 969.  
 7 A. Okay.  
 8 MR. BRISSENDEN: We have been going for  
 9 well over an hour. Is this a good time to take a  
 10 break?  
 11 MS. BERKOWER: Sure.  
 12 Let's go off the record, please.  
 13 (Recess from 5:07 p.m. to 5:21 p.m.)  
 14 Q. (BY MS. BERKOWER) Sir, just to let you know,  
 15 I have some more questions to ask, but then Ms. Perales  
 16 needs to return back to her family in San Antonio and  
 17 so I'm going to --  
 18 A. Certainly.  
 19 Q. -- let her go before I finish so she can get  
 20 home.  
 21 A. No problem.  
 22 MS. BERKOWER: Can you read me back the  
 23 last question?  
 24 (The requested portion was read back)  
 25 Q. (BY MS. BERKOWER) Turning your attention to

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1 Amendment 15 at Page 969.  
 2 A. Yes.  
 3 Q. Do you remember this amendment?  
 4 A. No.  
 5 Q. Would this amendment prohibit the use for the  
 6 underlying documents required to vote under S.B. 14?  
 7 A. It says, "Fees prohibited for certain forms of  
 8 identification documentation, notwithstanding any other  
 9 law and agency, institution, or political subdivision,"  
 10 and so forth.  
 11 Q. "May not charge any fee for the issuance of a  
 12 document that may be used as proof of identification  
 13 under this chapter." Is that accurate?  
 14 A. That is accurate.  
 15 Q. And then it also says, "or to obtain a  
 16 document that may be used as proof of identification  
 17 under this chapter." Is that accurate?  
 18 A. That is accurate.  
 19 Q. Do you know what the practical effect of that  
 20 amendment would have been?  
 21 MR. BRISSENDEN: I'm going to object and  
 22 instruct the witness not to answer the question on the  
 23 basis of privilege.  
 24 Q. (BY MS. BERKOWER) Is the effect of this  
 25 amendment that it would have been to prohibit fees for

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1 documentation used to vote under S.B. 14?  
 2 MR. BRISSENDEN: Same instruction.  
 3 Q. (BY MS. BERKOWER) Did you vote in favor of  
 4 this amendment?  
 5 A. I voted yes.  
 6 Q. Yes to what?  
 7 A. It appears I voted yes on the motion to table  
 8 the amendment.  
 9 Q. Is that effectively a vote against the  
 10 amendment?  
 11 A. It would be, yes.  
 12 Q. Do you know of any concerns in the public  
 13 record that the cost that would be imposed on voters to  
 14 obtain identification compliant with S.B. 14 might have  
 15 an adverse impact on minorities?  
 16 MR. BRISSENDEN: Can you read back the  
 17 question?  
 18 (The requested portion was read)  
 19 Q. (BY MS. BERKOWER) Do you know of any such  
 20 publicly made concerns?  
 21 A. Not off the top of my head, no.  
 22 Q. Do you know if S.B. 14 provided for an  
 23 identification free of charge to voters?  
 24 A. I don't recall.  
 25 MS. BERKOWER: This will be Exhibit 445.

<p style="text-align: center;">237</p> <p>1 (Exhibit No. 445 skipped)</p> <p>2 MS. BERKOWER: This is the final filed</p> <p>3 version of S.B. 14. I think you had asked about this</p> <p>4 earlier.</p> <p>5 MR. BRISSENDEN: Thank you.</p> <p>6 Q. (BY MS. BERKOWER) Turning to Page 13. I</p> <p>7 should actually mark that as Exhibit 5 instead of 445.</p> <p>8 We have used it previously in other depositions. Let</p> <p>9 me just change that.</p> <p>10 A. Sure.</p> <p>11 Q. Turning to Page 13 --</p> <p>12 A. All right.</p> <p>13 Q. -- Chapter 521A, Election Identification</p> <p>14 Certificate. Do you see that?</p> <p>15 A. I do.</p> <p>16 Q. Can you review this section briefly to</p> <p>17 yourself? Well, are you familiar with this section?</p> <p>18 A. Vaguely. Go ahead.</p> <p>19 Q. Did you review this section now?</p> <p>20 A. Briefly, I have.</p> <p>21 Q. Does this section provide an identification</p> <p>22 issued by the Department of Public Safety free of</p> <p>23 charge to voters who do not have another form of</p> <p>24 identification required by S.B. 14?</p> <p>25 A. It says the department may not collect a fee</p>	<p style="text-align: center;">239</p> <p>1 identification effectively no longer be free?</p> <p>2 MR. BRISSENDEN: Objection, calls for</p> <p>3 speculation, assumes facts not in evidence.</p> <p>4 Q. (BY MS. BERKOWER) You may answer.</p> <p>5 MR. BRISSENDER: If you know.</p> <p>6 A. It says, "The department may issue an election</p> <p>7 identification certificate to a person who states that</p> <p>8 the person is obtaining the certificate for the</p> <p>9 purposes of satisfying Section 63.001(b), Election</p> <p>10 Code, and does not have another form of identification</p> <p>11 described by Section 63.0101, Election Code, and" so</p> <p>12 forth.</p> <p>13 Q. (BY MS. BERKOWER) Okay. Directing your</p> <p>14 attention to Line 9 -- sorry, 19 of Page 14.</p> <p>15 A. Okay.</p> <p>16 Q. It says, "The department may require each</p> <p>17 applicant for an original or renewal election</p> <p>18 identification certificate to furnish to the department</p> <p>19 the information required by Section 521.142."</p> <p>20 Do you see that?</p> <p>21 A. Actually, I don't. Tell me where we are</p> <p>22 again.</p> <p>23 Q. Line 19 on Page 14.</p> <p>24 A. Okay.</p> <p>25 Q. Do you see that?</p>
<p style="text-align: center;">238</p> <p>1 for an election identification certificate or a</p> <p>2 duplicate election identification certificate issued</p> <p>3 under this section.</p> <p>4 Q. Do you know if there are certain documents</p> <p>5 required for a voter -- that a voter must present in</p> <p>6 order to obtain one of these certificates?</p> <p>7 A. I do not, no.</p> <p>8 Q. Do you know if a voter who wanted to obtain</p> <p>9 one of these certificates might have to provide</p> <p>10 documents -- official State documents?</p> <p>11 A. I do not know.</p> <p>12 Q. If a voter had to present certain documents to</p> <p>13 obtain the certificate and those documents cost money,</p> <p>14 would the identification still be free?</p> <p>15 MR. BRISSENDEN: Objection, calls for</p> <p>16 speculation and assumes facts not in evidence.</p> <p>17 Q. (BY MS. BERKOWER) You may answer.</p> <p>18 A. I believe that it's stated here, "The</p> <p>19 department may not collect a fee for an election</p> <p>20 identification certificate or the duplicate election</p> <p>21 identification certificate issued under this section."</p> <p>22 Q. But if the voter had to -- if the voter had to</p> <p>23 provide documentation -- underlying documentation to</p> <p>24 obtain the certificate, and that underlying</p> <p>25 documentation cost money, would the -- would this</p>	<p style="text-align: center;">240</p> <p>1 A. I do.</p> <p>2 Q. If the -- if the documents required by Section</p> <p>3 521.142 cost money, would this identification still be</p> <p>4 free?</p> <p>5 MR. BRISSENDEN: Same objection.</p> <p>6 THE WITNESS: Well, it says the</p> <p>7 department may require.</p> <p>8 Q. (BY MS. BERKOWER) If it does, in fact, choose</p> <p>9 to require documentation that costs money, would this</p> <p>10 identification still be free?</p> <p>11 A. I don't know if they require it or not.</p> <p>12 Q. But what if they do require it?</p> <p>13 MR. BRISSENDEN: Same objection.</p> <p>14 The witness has tried to, as best he can,</p> <p>15 answer your question.</p> <p>16 MS. BERKOWER: The witness -- the witness</p> <p>17 has provided nonresponsive answers. So I ask that he</p> <p>18 answer the question, please.</p> <p>19 MR. BRISSENDEN: I disagree. I think the</p> <p>20 question has been asked and answered, and he has tried</p> <p>21 to answer it the best he can given the information</p> <p>22 provided.</p> <p>23 MS. BERKOWER: The witness has only</p> <p>24 answered this question to the extent that the</p> <p>25 department may not, in fact, require underlying</p>

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1 documentation that costs money. The witness has not  
 2 answered my question which is if the department does in  
 3 fact require underlying documentation that costs money,  
 4 would this identification still be free.  
 5 A. I guess only if it costs money. But even  
 6 though it costs money, it doesn't mean that it costs  
 7 them money to get this. They may already have that  
 8 documentation.  
 9 Q. (BY MS. BERKOWER) What if they don't?  
 10 A. Then I guess it --  
 11 MR. BRISSENDEN: Objection, calls for  
 12 speculation.  
 13 THE WITNESS: Then I guess it would cost  
 14 money.  
 15 Q. (BY MS. BERKOWER) Okay. Turning your  
 16 attention back to the House Journal. Amendment 15 that  
 17 we just discussed a few minutes ago. Part two of that  
 18 amendment would have prohibited a fee to obtain a  
 19 document that may be used -- actually, I'll withdraw  
 20 that.  
 21 Turning your attention to Amendment 23, I  
 22 think that's on Page 979. Do you see Amendment 23?  
 23 A. I do.  
 24 Q. Would Amendment 23 have allowed voters to  
 25 present a student identification card containing the

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1 person's photograph in order to vote?  
 2 A. It appears it would.  
 3 Q. Did you vote in favor of the motion to table  
 4 this amendment?  
 5 A. It appears I did.  
 6 Q. Have you ever worked as a poll worker?  
 7 A. What do you mean by "a poll worker"?  
 8 Q. Have you ever worked as an election judge or  
 9 in any capacity at the polls on election day?  
 10 A. I stood in front of a poll encouraging people  
 11 to vote for myself, but I have not worked in the  
 12 capacity of helping run an election.  
 13 Q. I have never heard that defined as a poll  
 14 worker before.  
 15 A. We call it that all the time. I apologize.  
 16 Q. I guess I mean inside the poll.  
 17 A. No, I have not worked inside the poll.  
 18 Q. How did -- do you know how many forms of  
 19 identification are issued by the United States  
 20 military?  
 21 A. I do not.  
 22 Q. Do you believe that military IDs will be  
 23 easily recognized by poll workers?  
 24 MR. BRISSENDEN: Objection, calls for  
 25 speculation as to poll workers.

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1 THE WITNESS: I wouldn't know.  
 2 MS. BERKOWER: I think at this point I'm  
 3 actually going to turn -- give Ms. Perales a chance to  
 4 ask some questions, and then I'll return after she's  
 5 finished.  
 6 EXAMINATION  
 7 BY MS. PERALES:  
 8 Q. Good afternoon, Chairman Bonnen. My name is  
 9 Nina Perales, and I represent the Rodriguez defendant  
 10 intervenors in this lawsuit.  
 11 I'm going to skip the questions that I  
 12 think have already been answered and so I will not go  
 13 in depth with you about 2005 or 2007 and those  
 14 sessions. You have already testified you were not on  
 15 the elections committee for those sessions. That's  
 16 correct?  
 17 A. That is correct.  
 18 Q. Okay. Now, you had earlier testified that you  
 19 didn't exactly remember what had happened with those  
 20 bills ultimately, but I did want to ask if you recall  
 21 in 2005 and 2007 that the voter ID bills originated in  
 22 the House and died in the Senate.  
 23 A. Respectfully, all of that is record. I don't  
 24 walk around recalling things like that day in and day  
 25 out. But it's a record. We can check it, and I

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1 wouldn't argue with the record.  
 2 Q. Is your answer, then, that sitting here today  
 3 you can't recall whether the 2005 and '7 voter ID bills  
 4 originated in the House and died in the Senate?  
 5 A. That is correct.  
 6 Q. Okay.  
 7 A. But I wouldn't disagree with you if you are  
 8 telling me what the facts are.  
 9 Q. No, I just wanted to ask about your  
 10 recollection.  
 11 (Rodriguez Exhibit No. 30 marked)  
 12 Q. (BY MS. PERALES) Chairman Bonnen, the court  
 13 reporter has handed you what has been marked as  
 14 Deposition Exhibit Rodriguez 30. Do you happen to  
 15 recognize this document?  
 16 THE WITNESS: I do not.  
 17 Q. (BY MS. PERALES) You were on the elections  
 18 committee in 2009, correct?  
 19 A. That is correct.  
 20 Q. Even though you don't recognize this document  
 21 specifically, would it have been normal for you to have  
 22 reviewed a memo sent to the members of the committee by  
 23 the Secretary of State following up on some questions  
 24 that came up at hearing?  
 25 A. Would I have send it to my office? Certainly.

<p style="text-align: center;">245</p> <p>1 Would I have reviewed it? No, there's no guarantee of</p> <p>2 that.</p> <p>3 Q. I was hoping it might refresh your</p> <p>4 recollection whether in March of 2009, as the voter ID</p> <p>5 bill is being heard, that there were some questions</p> <p>6 raised by members regarding whether some voters might</p> <p>7 lack a drivers license.</p> <p>8 A. Uh-huh.</p> <p>9 Q. And that's specifically addressed in response</p> <p>10 number 5 on Page 3.</p> <p>11 A. Go ahead.</p> <p>12 Q. No, I have a question on the table. I was</p> <p>13 waiting for your answer.</p> <p>14 A. Oh, Im sorry. What did you ask? I apologize.</p> <p>15 MS. PERALES: Can you read it back?</p> <p>16 THE WITNESS: I didn't hear your</p> <p>17 question.</p> <p>18 MS. PERALES: That's okay. It's late in</p> <p>19 the day.</p> <p>20 (The requested portion was read back)</p> <p>21 Q. (BY MS. PERALES) Do you recall concerns being</p> <p>22 raised at that time regarding voters who might lack a</p> <p>23 driver's license?</p> <p>24 MR. BRISSENDEN: To the extent that the</p> <p>25 question requires information that's not a part of the</p>	<p style="text-align: center;">247</p> <p>1 "Representative Bonnen," and then it has a colon?</p> <p>2 A. I do.</p> <p>3 Q. Would you mind just taking a look at what you</p> <p>4 said there?</p> <p>5 A. Okay.</p> <p>6 Q. And then right before that, if you wouldn't</p> <p>7 mind, at line three, reading Ms. Collins' remark, just</p> <p>8 to get some context.</p> <p>9 MR. BRISSENDEN: On the same page?</p> <p>10 MS. PERALES: Yes, Page 613.</p> <p>11 THE WITNESS: Okay.</p> <p>12 Q. (BY MS. PERALES) Now, would it be fair to say</p> <p>13 that here Ms. Collins is saying that she likes the</p> <p>14 inclusion of an option to present a valid employee</p> <p>15 identification card, and you are basically responding</p> <p>16 saying that you appreciate that because you have some</p> <p>17 familiarity with an employee ID card for the Dow</p> <p>18 company in your district. Is that right?</p> <p>19 A. I know of the significance of what security</p> <p>20 requirements a Dow employee or BASF -- not BAS -- BASF</p> <p>21 employee goes through to receive credentials.</p> <p>22 Q. I see. And do you have a Dow company plant in</p> <p>23 your district? Is that why you said this?</p> <p>24 A. Correct.</p> <p>25 Q. Okay. What is --</p>
<p style="text-align: center;">246</p> <p>1 public record, I would instruct you not to answer. To</p> <p>2 the extent you can answer the question based upon</p> <p>3 information that's of public record, you may answer.</p> <p>4 THE WITNESS: I think the statistics were</p> <p>5 requested, and that's what this has provided.</p> <p>6 Q. (BY MS. PERALES) During the public hearing on</p> <p>7 the --</p> <p>8 A. I assume that's where it was asked.</p> <p>9 Q. And do you recall that from your time on the</p> <p>10 committee, that questions were being raised or</p> <p>11 statistics were being requested regarding voters who</p> <p>12 might lack a driver's license?</p> <p>13 A. I vaguely recall that questions were asked</p> <p>14 about the numbers.</p> <p>15 MS. PERALES: I would like to mark this</p> <p>16 Rodriguez 31, please.</p> <p>17 (Rodriguez Exhibit No. 31 marked)</p> <p>18 Q. (BY MS. PERALES) Chairman Bonnen, you have</p> <p>19 been handed what has been marked Rodriguez Deposition</p> <p>20 Exhibit No. 31. You may not have ever seen a</p> <p>21 transcription of these hearings. They were done for</p> <p>22 this case. But I will represent to you that it is a</p> <p>23 transcription.</p> <p>24 If you would turn with me to Page 613.</p> <p>25 Do you see where the -- line 15 where it says,</p>	<p style="text-align: center;">248</p> <p>1 A. And a BASF plant.</p> <p>2 Q. What is BASF?</p> <p>3 A. It is a large petrochemical company.</p> <p>4 Q. So are those two different companies, then,</p> <p>5 the Dow company --</p> <p>6 A. Yes.</p> <p>7 Q. Thank you.</p> <p>8 If you could identify in your little pile</p> <p>9 there US 435, which is the S.B. 362. US 435.</p> <p>10 A. Okay. 435 is a memo or press release.</p> <p>11 MR. BRISSENDEN: Do you believe it's 434?</p> <p>12 MS. PERALES: Well, if the witness can</p> <p>13 find it, I will mark mine accordingly.</p> <p>14 Q. (BY MS. PERALES) It should say S.B. 362 in</p> <p>15 the corner.</p> <p>16 A. Here it is.</p> <p>17 Q. All right. What exhibit number do you have</p> <p>18 for that?</p> <p>19 A. 434.</p> <p>20 Q. 434. I'll go ahead and mark mine.</p> <p>21 And does it say in the upper left-hand</p> <p>22 corner, "By Fraser, Estes, Nelson, Nichols"?</p> <p>23 A. Correct.</p> <p>24 Q. All right. So we're looking at the same</p> <p>25 document.</p>

<p style="text-align: center;">249</p> <p>1 Now, I believe you testified a little bit</p> <p>2 earlier today about S.B. 362 as it came over from the</p> <p>3 Senate to the House in 2009?</p> <p>4 A. Possibly. I don't think I was very specific,</p> <p>5 but sure.</p> <p>6 Q. All right. Well, I want to try to refresh</p> <p>7 your recollection a little bit about this time when</p> <p>8 S.B. 362 or Senator Fraser's voter ID bill comes over</p> <p>9 to the House. You are on the committee, Todd Smith is</p> <p>10 the chair.</p> <p>11 A. Correct.</p> <p>12 Q. And there is -- there is some material in the</p> <p>13 public record about what was going on during this time.</p> <p>14 A. Certainly.</p> <p>15 Q. I know you had an exchange earlier with</p> <p>16 Ms. Brekower about Todd Smith's attempt to draft a</p> <p>17 compromise bill for an alternative or substitute bill,</p> <p>18 quite frankly, to 362.</p> <p>19 MR. BRISSENDEN: Objection to the</p> <p>20 extent that calls for speculation.</p> <p>21 THE WITNESS: Those all have many</p> <p>22 different meanings.</p> <p>23 Q. (BY MS. PERALES) I'll call it a committee</p> <p>24 substitute, then.</p> <p>25 A. That would be fine.</p>	<p style="text-align: center;">251</p> <p>1 when the bill was finally voted on by the Elections</p> <p>2 Committee, that it had gone back to Senator Fraser's</p> <p>3 version; that essentially Chairman Smith gave up on his</p> <p>4 committee substitute and basically had the committee</p> <p>5 vote on S.B. 362 as it came from the Senate?</p> <p>6 MR. BRISSENDEN: I'm going to object to</p> <p>7 the extent that the question mischaracterizes prior</p> <p>8 testimony.</p> <p>9 But you may answer.</p> <p>10 Q. (BY MS. PERALES) Does that sound familiar?</p> <p>11 A. Vaguely familiar. With that said, though,</p> <p>12 there would be a clear record of what the committee</p> <p>13 voted on, and if it was Senator Fraser's original bill</p> <p>14 passed by the Senate, I respectfully believe you. I</p> <p>15 wouldn't try and argue that with you.</p> <p>16 Q. And let me see if I can help further.</p> <p>17 A. And, respectfully, that bill at that time was</p> <p>18 one of the issues that was a challenge, changed</p> <p>19 frequently and often.</p> <p>20 MS. PERALES: Okay. Let's go ahead and</p> <p>21 mark this.</p> <p>22 (Rodriguez Exhibit No. 32 marked)</p> <p>23 THE WITNESS: So, respectfully, if you</p> <p>24 are telling me that the bill that was voted on by the</p> <p>25 Elections Committee, the record shows that it was</p>
<p style="text-align: center;">250</p> <p>1 Q. All right. So you recall based on your</p> <p>2 knowledge from the public record that there was an</p> <p>3 effort behind Chairman Smith to craft a committee</p> <p>4 substitute to S.B. 362, correct?</p> <p>5 A. I do recall that, correct.</p> <p>6 Q. Do you recall there was some opposition by</p> <p>7 Representatives Betty Brown and Linda Harper-Brown to</p> <p>8 Chairman Smith's committee substitute?</p> <p>9 A. I don't -- without breaking privilege, I just</p> <p>10 think that there was issues with who would get what</p> <p>11 they wanted in what bills.</p> <p>12 Q. And a lot of that was covered in the Quorum</p> <p>13 Report --</p> <p>14 A. Yeah.</p> <p>15 Q. -- so I don't want you break any privilege</p> <p>16 there.</p> <p>17 A. Not that what I know is always accurate.</p> <p>18 Q. Correct.</p> <p>19 And lastly -- and I am informed by having</p> <p>20 been in Chairman Smith's deposition last Friday --</p> <p>21 A. No, I understand.</p> <p>22 Q. -- where he did talk about some of that.</p> <p>23 A. Certainly.</p> <p>24 Q. And I want to hopefully refresh your</p> <p>25 recollection. Do you recall in the public record that</p>	<p style="text-align: center;">252</p> <p>1 Senator Fraser's bill that was passed by the Senate, I</p> <p>2 wouldn't argue with you.</p> <p>3 Q. (BY MS. PERALES) The court reporter has</p> <p>4 handed you what has been marked Rodriguez Deposition</p> <p>5 Exhibit 32.</p> <p>6 A. Okay.</p> <p>7 Q. And I'm doing this because I don't want to</p> <p>8 question you about things that seem unfamiliar.</p> <p>9 Do you recognize this as a committee</p> <p>10 report for S.B. 2362?</p> <p>11 A. It does appear to be a committee report, yes.</p> <p>12 Q. Okay. Do you see where it says "unamended" in</p> <p>13 parenthesis up on the front page?</p> <p>14 A. I do.</p> <p>15 Q. Okay. So I just want to make sure that you</p> <p>16 feel comfortable when I'm talking about this bill</p> <p>17 coming out of the House Elections Committee unamended?</p> <p>18 A. Sure.</p> <p>19 Q. Now, this is also the time when you testified</p> <p>20 previously to some correspondence with people who had</p> <p>21 written you e-mails -- third parties that had written</p> <p>22 you e-mails. And a couple of these e-mails mentioned</p> <p>23 that you had voted no in committee?</p> <p>24 A. Correct.</p> <p>25 Q. Now, is it correct to say that you voted no in</p>

<p style="text-align: center;">253</p> <p>1 committee following Representative Heflin casting his</p> <p>2 vote? Do you recall that?</p> <p>3 A. I do recall it. I believe you are correct,</p> <p>4 but to be very correct, the record would reflect that</p> <p>5 my name was called before. I passed. Chairman Smith</p> <p>6 went through the rest of the committee roster.</p> <p>7 Representative Heflin did vote yes. He came back to me</p> <p>8 at the end when all members had voted, and I voted no.</p> <p>9 Q. Okay. And I seem to recall from your e-mail</p> <p>10 correspondences with third parties that you had some</p> <p>11 concerns about the bill not being strong enough as</p> <p>12 written?</p> <p>13 A. That is correct.</p> <p>14 Q. And when you were writing that in your</p> <p>15 correspondence to the third parties, were you referring</p> <p>16 to S.B. 362 as it had come over from the Senate, or</p> <p>17 were -- were those concerns more expressed towards</p> <p>18 Chairman Smith's committee substitute?</p> <p>19 MR. BRISSENDEN: I'm going to object to</p> <p>20 the extent that that question delves into the thought</p> <p>21 process, mental impressions, about the legislation, and</p> <p>22 instruct you not to answer the question because it</p> <p>23 does -- although it does relate to correspondence and</p> <p>24 public communication to third parties, your thought</p> <p>25 processes, mental impressions about that statement I</p>	<p style="text-align: center;">255</p> <p>1 impressions.</p> <p>2 Do you understand that?</p> <p>3 THE WITNESS: I do.</p> <p>4 MR. BRISSENDEN: Very good.</p> <p>5 Q. (BY MS. PERALES) Okay. And so just so I can</p> <p>6 be clear about this, I am not asking you about your</p> <p>7 thought process, I'm not asking you about your thoughts</p> <p>8 about the bill. I'm asking you a question about this</p> <p>9 document. And when I say "this document," I mean US</p> <p>10 437.</p> <p>11 A. Correct.</p> <p>12 Q. And you make a couple of references to "this</p> <p>13 bill" --</p> <p>14 A. Correct.</p> <p>15 Q. -- right here in the e-mail.</p> <p>16 A. Uh-huh.</p> <p>17 Q. There is a sentence -- second sentence. "This</p> <p>18 bill is not a true voter ID bill." And so I believe it</p> <p>19 is not privileged to explain what "this bill" means in</p> <p>20 this correspondence. Not anything about your</p> <p>21 deliberations or about your thought process.</p> <p>22 MR. BRISSENDEN: Let me get the exhibit</p> <p>23 here. This may not be one that I had an extra copy of.</p> <p>24 Q. The second sentence of the first real</p> <p>25 paragraph.</p>
<p style="text-align: center;">254</p> <p>1 believe would be privileged and I instruct you not to</p> <p>2 answer.</p> <p>3 MS. BERKOWER: The privilege does not</p> <p>4 apply here because if you write a statement to a third</p> <p>5 party, then you can answer a question about that</p> <p>6 statement. So I want to be very, very clear that what</p> <p>7 I'm asking with respect to the e-mail is when you</p> <p>8 express that specific concern in that e-mail. I'm not</p> <p>9 asking about your deliberative process, but simply the</p> <p>10 specific concern that you expressed in the e-mail,</p> <p>11 whether you were referring to S.B. 362 as it came out</p> <p>12 of the Senate, or whether you were referring to</p> <p>13 Chairman Smith's committee substitute.</p> <p>14 MR. BRISSENDEN: And let me caution the</p> <p>15 witness, and I do not believe that that is an accurate</p> <p>16 representation of what the Court's order stated</p> <p>17 yesterday on Page 6 where it makes reference to public</p> <p>18 documents; that although they are public</p> <p>19 communications, questioning a legislator about</p> <p>20 communications to the extent that it would require the</p> <p>21 legislator to reveal his thought processes. Subjective</p> <p>22 motivations on any legislative activity with respect to</p> <p>23 the law are covered by the privilege, so that based</p> <p>24 upon that, that's what I am trying to follow when I'm</p> <p>25 instructing the witness not to divulge mental</p>	<p style="text-align: center;">256</p> <p>1 MR. BRISSENDEN: And just so I</p> <p>2 understand, your question was what is this bill --</p> <p>3 MS. PERALES: What does "this bill" mean.</p> <p>4 MR. BRISSENDEN: -- that he's referring</p> <p>5 to? That is your question?</p> <p>6 MS. PERALES: Yes.</p> <p>7 MR. BRISSENDEN: You may answer.</p> <p>8 THE WITNESS: Being only a few minutes</p> <p>9 ago, I didn't remember whether we voted out Senator</p> <p>10 Fraser's bill from the Senate or not. I don't recall.</p> <p>11 Q. Okay. Let me try to help you remember by</p> <p>12 referring you to the bottom of the page. There is a</p> <p>13 sentence that begins there, "Chairman Smith, who will</p> <p>14 be among the 20 House conferees, has made his</p> <p>15 assistance clear. He is not committed to strictly</p> <p>16 requiring photo IDs to vote, nor does he feel that</p> <p>17 immediate effect of the mandatory voter ID is</p> <p>18 necessary. He supports phasing in the changes over a</p> <p>19 four-year period.</p> <p>20 Now, do you recall that as being</p> <p>21 associated with his committee substitute which had a</p> <p>22 phase-in of four years?</p> <p>23 A. I do recall that now that you mention it to</p> <p>24 me, yes.</p> <p>25 Q. It also had some additional funding for voter</p>

<p style="text-align: center;">265</p> <p>1 publicly -- this is exactly I think where the Court is</p> <p>2 coming down on this. If you have written those words,</p> <p>3 then I can at least ask you what those words mean.</p> <p>4 MR. BRISSENDEN: I disagree -- I disagree</p> <p>5 with your analysis and representations of the Court.</p> <p>6 I'm looking at the Court's order on Page 6, and the</p> <p>7 Court has specifically stated that questioning the</p> <p>8 legislature or staff without communications that</p> <p>9 include public communications, just like you are</p> <p>10 talking about -- to the extent it would require the</p> <p>11 legislator to reveal his motivations, his thought</p> <p>12 processes about S.B. 14 and the opinions of the</p> <p>13 legislative activity with respect to the law, the Court</p> <p>14 has specifically ruled that that is covered, and I</p> <p>15 would instruct you not to answer.</p> <p>16 Q. We will take it up later. Thank you very</p> <p>17 much.</p> <p>18 A. Thank you.</p> <p>19 Q. This is from a prior deposition.</p> <p>20 MS. PERALES: Can you put a sticker on</p> <p>21 this that says Rodriguez 20.</p> <p>22 (Rodriguez Exhibit No. 20 marked)</p> <p>23 Q. (BY MS. PERALES) The court reporter has</p> <p>24 handed you what is marked Rodriguez Deposition</p> <p>25 Exhibit 20. I would ask you to turn to Page 340, if</p>	<p style="text-align: center;">267</p> <p>1 the Legal Defense Fund.</p> <p>2 A. Yes.</p> <p>3 Q. Would it be fair to say that here you are</p> <p>4 basically suggesting that there is a possible</p> <p>5 correction to students not having photo ID and that</p> <p>6 correction would be having the university issue a photo</p> <p>7 ID?</p> <p>8 A. "If there is a significant problem, I would</p> <p>9 really want to know specifics in terms of the absence</p> <p>10 of photo identification documents that are already</p> <p>11 available in most universities rather than simply</p> <p>12 presuming the problem. I would like to see some</p> <p>13 identification" -- indication, excuse me -- "I would</p> <p>14 like to see some indication that it can't be corrected</p> <p>15 simply by the university issuing a photo identification</p> <p>16 to their students."</p> <p>17 Q. So is it fair to say there that you're</p> <p>18 suggesting that whatever problem the witness might be</p> <p>19 describing could be corrected by simply having the</p> <p>20 university issue a photo ID to its students?</p> <p>21 A. Again, I would say I would like to see some</p> <p>22 indication that it can't be corrected simply by a</p> <p>23 university issuing a photo identification to their</p> <p>24 students.</p> <p>25 Q. Do you remember in 2009 whether any member of</p>
<p style="text-align: center;">266</p> <p>1 you would, please.</p> <p>2 A. Sorry. Could you say the number again?</p> <p>3 Q. 340.</p> <p>4 A. Okay.</p> <p>5 Q. Okay. Now, it says Q and A here.</p> <p>6 A. Okay.</p> <p>7 Q. So I need you to go back to Page 337.</p> <p>8 A. Okay.</p> <p>9 Q. And you'll see on Page 337 --</p> <p>10 A. Yes.</p> <p>11 Q. -- on Line 17, it will say Question -- it</p> <p>12 says, "Question by Representative Bonnen." Do you see</p> <p>13 that?</p> <p>14 A. Yes.</p> <p>15 Q. Then what follows is basically an exchange</p> <p>16 back and forth between you and the witness.</p> <p>17 A. Okay.</p> <p>18 Q. So then if you wouldn't mind reading your</p> <p>19 statement on Page 340 now, beginning with Line 11, just</p> <p>20 to refresh your recollection.</p> <p>21 MR. BRISSENDEN: I can't tell from</p> <p>22 reading the document what he is speaking to.</p> <p>23 Q. (BY MS. PERALES) Oh, I'm sure you can if you</p> <p>24 read back. I have a portion that goes back a little</p> <p>25 bit farther. If it helps, this is Jenigh Garrett from</p>	<p style="text-align: center;">268</p> <p>1 the House offered a hard photo ID bill?</p> <p>2 A. I do not remember.</p> <p>3 Q. Okay. And when I say "a hard photo ID," I'm</p> <p>4 using a shorthand that's come up that it would be a</p> <p>5 bill that would require -- whatever form of voter ID</p> <p>6 that would be offered had to have a photo on it.</p> <p>7 A. Right.</p> <p>8 Q. Okay. I would like to move with you to 2001.</p> <p>9 You see how fast we're going through time. The years</p> <p>10 are spinning by.</p> <p>11 In 2011 you become -- you're named the</p> <p>12 chair of the select committee, correct?</p> <p>13 A. Correct.</p> <p>14 Q. Did you file a shell bill for voter ID?</p> <p>15 A. No.</p> <p>16 Q. Are you familiar with any other house</p> <p>17 committees that only considered one bill?</p> <p>18 MR. BRISSENDEN: Objection, asked and</p> <p>19 answered.</p> <p>20 Q. (BY MS. PERALES) Was that asked?</p> <p>21 A. She asked it this morning.</p> <p>22 Q. Okay. Did she ask you?</p> <p>23 A. Yes.</p> <p>24 Q. Did the select committee on voter fraud and</p> <p>25 voter identification exist in past legislatures -- past</p>

<p style="text-align: center;">269</p> <p>1 sessions of the legislature?</p> <p>2 A. I believe the record will reflect whether it</p> <p>3 did or didn't. I don't believe the committee</p> <p>4 specifically did, no.</p> <p>5 (Rodriguez Exhibit No. 33 marked)</p> <p>6 Q. (BY MS. PERALES) I want to give you a minute</p> <p>7 to take a look at the document which has been handed to</p> <p>8 you and marked Rodriguez Deposition Exhibit 33.</p> <p>9 A. Sure.</p> <p>10 Q. Do you recognize this as a House Research</p> <p>11 Organization bill analysis for S.B. 14?</p> <p>12 A. Sure.</p> <p>13 Q. If you wouldn't mind coming with me to --</p> <p>14 where is it? Okay. Last page on the section that</p> <p>15 says, "Notes." Do you see it there? The last page --</p> <p>16 A. Sure.</p> <p>17 Q. -- Page 11 --</p> <p>18 A. Okay.</p> <p>19 Q. -- the section entitled "Notes."</p> <p>20 Do you see where it says, "During floor</p> <p>21 consideration of S.B. 13 on March 21st the bill was</p> <p>22 resubmitted to committee on a point of order"?</p> <p>23 A. Correct.</p> <p>24 Q. Do you remember what that point of order was?</p> <p>25 MR. BRISENDEN: Sorry, what page?</p>	<p style="text-align: center;">271</p> <p>1 A. Well, we would have -- right. My point is it</p> <p>2 was not -- it did not get to the floor at that point.</p> <p>3 And we could -- we could find out, but it was -- I</p> <p>4 don't remember specifically what the issue was. I do</p> <p>5 remember that it was debatable if it was an issue. And</p> <p>6 it was an extraordinary abundance of caution with which</p> <p>7 it was returned.</p> <p>8 Q. So the issue came up in calendars and the bill</p> <p>9 returned to the committee for a small fix?</p> <p>10 A. Correct.</p> <p>11 Q. Do you recall --</p> <p>12 A. To the committee report.</p> <p>13 Q. To the committee report?</p> <p>14 A. Correct.</p> <p>15 Q. And do you recall how long it took from the</p> <p>16 time the bill went from calendars back into committee?</p> <p>17 A. I do not at all, but I assume the record would</p> <p>18 indicate that.</p> <p>19 Q. Okay.</p> <p>20 (Rodriguez Exhibit No. 34 marked)</p> <p>21 Q. (BY MS. PERALES) The court reporter has</p> <p>22 handed you what has been marked Rodriguez Exhibit</p> <p>23 No. 34. Do you recognize this as a page from the House</p> <p>24 Journal from April 8, 2011?</p> <p>25 A. It appears to be.</p>
<p style="text-align: center;">270</p> <p>1 MS. PERALES: The last page, Page 11.</p> <p>2 THE WITNESS: No, I do not.</p> <p>3 Q. (BY MS. PERALES) Do you remember how long it</p> <p>4 took to get the bill back out on the House floor?</p> <p>5 A. Well, I don't think it ever got to the House</p> <p>6 floor.</p> <p>7 Q. This is S.B. 14.</p> <p>8 A. Correct. Are you talking about in-house</p> <p>9 deliberations?</p> <p>10 Q. House deliberations.</p> <p>11 A. Right. I don't -- one, I don't think this is</p> <p>12 accurately presented.</p> <p>13 Q. Really?</p> <p>14 A. I think it would have been the committee</p> <p>15 substitute to Senate Bill 14, if it's on the house</p> <p>16 side. And I also think -- and also, the bill never</p> <p>17 went to the floor. And it was not -- it did not go to</p> <p>18 the floor and then get recommitted from there. The</p> <p>19 bill had been voted out of committee, was in calendars,</p> <p>20 and then was sent back to the committee for correction</p> <p>21 to the committee report. And then -- so it was not</p> <p>22 taken up on the floor at all.</p> <p>23 Q. So -- that was the first time, you mean?</p> <p>24 Because eventually it had to have been taken up on the</p> <p>25 floor in the past.</p>	<p style="text-align: center;">272</p> <p>1 Q. Okay. The question is, is it correct to say</p> <p>2 that you were appointed to the conference committee for</p> <p>3 S.B. 14?</p> <p>4 A. It appears I was.</p> <p>5 Q. Do you remember serving on the conference</p> <p>6 committee for S.B. 14?</p> <p>7 A. Vaguely, yes.</p> <p>8 MS. PERALES: Mark this, please.</p> <p>9 (Rodriguez Exhibit No. 35 marked)</p> <p>10 Q. (BY MS. PERALES) The court reporter has</p> <p>11 handed you what has been marked as Rodriguez</p> <p>12 Exhibit 35.</p> <p>13 A. Correct.</p> <p>14 (Discussion off the record)</p> <p>15 Q. (BY MS. PERALES) Now, I'm going to ask you</p> <p>16 one or two questions.</p> <p>17 A. Sure.</p> <p>18 Q. And I -- you have the conference report to</p> <p>19 refresh your recollection --</p> <p>20 A. Absolutely.</p> <p>21 Q. -- about things that happened in conference.</p> <p>22 Do you recall in conference that a</p> <p>23 provision was added that DPS would issue a voter</p> <p>24 certificate.</p> <p>25 A. Vaguely.</p>

<p style="text-align: center;">277</p> <p>1 THE WITNESS: It may have. Again, I'm</p> <p>2 looking at the report now and I'll have an answer when</p> <p>3 I find it.</p> <p>4 Q. (BY MS. PERALES) Do you -- in the meantime,</p> <p>5 do you have any recollection -- you mentioned that you</p> <p>6 thought there was some vague discussion -- you have a</p> <p>7 vague recollection of some discussion in the House</p> <p>8 about a potential problem with bill language requiring</p> <p>9 DPS to give out free driver's licenses. Do you recall</p> <p>10 anything in the public record about those same issues</p> <p>11 being raised on the Senate side?</p> <p>12 A. I do not at all.</p> <p>13 Q. Do you want some more time to take a look at</p> <p>14 the conference report or do you want to me -- do you</p> <p>15 want to answer the question whether you recollect?</p> <p>16 A. Well, I guess the answer would be I don't have</p> <p>17 a clear recollection of whether we went outside the</p> <p>18 bounds or not. But, respectfully, the record will tell</p> <p>19 us that and I don't see any point to guess.</p> <p>20 Q. Okay. Well, I can move on, then, if it's all</p> <p>21 right with you.</p> <p>22 A. That's fine. Sure.</p> <p>23 Q. Take a look at the part of the conference</p> <p>24 committee report that looks like a chart.</p> <p>25 A. That's a lot of --</p>	<p style="text-align: center;">279</p> <p>1 statewide effort to include education targeted at</p> <p>2 low-income and minority voters."</p> <p>3 Do you see that sentence there?</p> <p>4 A. I do.</p> <p>5 Q. Would it be correct to say that in the</p> <p>6 conference version of the bill, the language was kept</p> <p>7 from the Senate version without a provision involving</p> <p>8 low-income and minority special targeted education?</p> <p>9 MR. BRISSENDEN: To the extent you can</p> <p>10 answer that based upon information in the public</p> <p>11 record, you can answer.</p> <p>12 THE WITNESS: Could you restate the</p> <p>13 question?</p> <p>14 Q. (BY MS. PERALES) Uh-huh. Would it be fair to</p> <p>15 say, then -- well, I can say it shorthand, but then</p> <p>16 Reynolds is going to object.</p> <p>17 A. That's okay.</p> <p>18 Q. Would it be fair to say that the minority --</p> <p>19 the education targeted low-income and minority voters</p> <p>20 that was in the House version of the bill was stripped</p> <p>21 out in the conference committee?</p> <p>22 MR. BRISSENDEN: My instruction to you</p> <p>23 would be the same.</p> <p>24 THE WITNESS: What it says is that, among</p> <p>25 other provisions, requires the Secretary of State to</p>
<p style="text-align: center;">278</p> <p>1 Q. It should be near the -- these are Pages 1 and</p> <p>2 2 --</p> <p>3 A. Okay.</p> <p>4 Q. -- following the bill language attachment.</p> <p>5 A. Sure.</p> <p>6 Q. And I'm going to hold it up so you can take a</p> <p>7 look, Pages 1 and 2.</p> <p>8 A. Yes, I have it. Thank you.</p> <p>9 Q. You're welcome.</p> <p>10 Near the bottom of Page 1 and flowing</p> <p>11 onto Page 2 --</p> <p>12 A. Yes.</p> <p>13 Q. -- there's a discussion about Section 5 in the</p> <p>14 Senate version, Section 5 in the House version, and</p> <p>15 then Section 5 in the conference version. And I</p> <p>16 believe one is meant to read it from left to right --</p> <p>17 A. That's correct.</p> <p>18 Q. -- to compare the versions. Yes?</p> <p>19 A. It's Senate version, House version, and then</p> <p>20 conference version.</p> <p>21 Q. Okay. Now, if you would look with me on the</p> <p>22 House version of Section 5 where it says,</p> <p>23 "Substantially the same as Senate version --</p> <p>24 A. Uh-huh.</p> <p>25 Q. -- "except requires the Secretary of State</p>	<p style="text-align: center;">280</p> <p>1 conduct the statewide efforts to educate voters</p> <p>2 regarding the identification requirements for voting.</p> <p>3 That is the Senate version.</p> <p>4 Q. (BY MS. PERALES) Okay. And do you see in the</p> <p>5 House version where it says requires --</p> <p>6 A. Targeted.</p> <p>7 Q. -- targeted -- well, education targeted at</p> <p>8 low-income and minority voters?</p> <p>9 A. I do see that.</p> <p>10 Q. All right. Is it fair to say that that</p> <p>11 specific provision, targeting education to low-income</p> <p>12 and minority voters, was stripped out in conference?</p> <p>13 MR. BRISSENDEN: My instruction to you</p> <p>14 would be the same. To the extent it is part of the</p> <p>15 public record, you can disclose it. To the extent the</p> <p>16 question requires you to disclose information that is</p> <p>17 not part of the public record, I instruct you not to</p> <p>18 answer.</p> <p>19 THE WITNESS: I think more appropriately</p> <p>20 I would say that the Senate version was used, which has</p> <p>21 a broader statewide effort to educate voters regarding</p> <p>22 identification and requirements of voting.</p> <p>23 Q. (BY MS. PERALES) But isn't it true that the</p> <p>24 House version makes reference to the Secretary of</p> <p>25 State's statewide effort?</p>

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1 A. It does.  
 2 Q. And then says that specifically it needs to  
 3 include education targeted at low-income and minority  
 4 voters?  
 5 MR. BRISSENDEN: Objection to the extent  
 6 the question mischaracterizes the statement. I believe  
 7 you said needs to. I don't believe I see that language  
 8 in the --  
 9 MS. PERALES: Okay. I'll rephrase.  
 10 MR. BRISSENDER: -- House version.  
 11 Q. (BY MS. PERALES) Do you see over in the House  
 12 version that the Section 5 is substantially the same as  
 13 the Senate version except that it requires the  
 14 statewide effort to include education targeted at  
 15 low-income and minority voters?  
 16 MR. BRISSENDEN: Objection, vague.  
 17 Q. (BY MS. PERALES) You may answer.  
 18 A. The assumption is that the Senate version  
 19 would not have them target at low-income and minority  
 20 voters, and I don't agree that that assumption is  
 21 correct.  
 22 Q. No, I'm not making any assumptions. I just  
 23 want an answer to the question.  
 24 A. Well, the answer is that it says, "Same as  
 25 Senate version except incorporates effective date same

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1 as House version."  
 2 Q. That's right. So it takes the effective date  
 3 from the House version?  
 4 A. Correct.  
 5 Q. And then it takes Section 5 from the Senate  
 6 version?  
 7 A. Correct.  
 8 Q. All right.  
 9 A. Which requires a statewide education effort.  
 10 Q. Right. So I'll say my question, which is a  
 11 yes or no question.  
 12 Is it fair to say that the specific  
 13 provision that says, "include education targeted at  
 14 low-income and minority voters" was taken out in  
 15 conference committee?  
 16 MR. BRISSENDEN: My instruction would be  
 17 to the extent that is matters of public record, you may  
 18 answer. To the extent that it is not part of the  
 19 public report and requires you to divulge thoughts,  
 20 opinions, analysis and deliberations with regards to  
 21 the conference, I would instruct you not to answer.  
 22 THE WITNESS: I don't agree with that  
 23 statement. I think it's semantics as to language.  
 24 Q. (BY MS. PERALES) Okay. But the language that  
 25 says "targeted at" --

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1 A. Correct.  
 2 Q. -- "low-income and minority voters" is not in  
 3 the conference version, is it?  
 4 A. That's -- those specific words are not, but it  
 5 doesn't infer that that does not occur.  
 6 Q. I understand. But the language is not in the  
 7 conference version?  
 8 A. Targeted at low-income and minority voters, I  
 9 assume it's not, but I'm not certain of that.  
 10 Q. All right. And the language was in the House  
 11 version as passed by the House?  
 12 A. It apparently was, yes.  
 13 Q. Okay. Thank you. Do you recall that when  
 14 S.B. 14 came over to the House, it contained an  
 15 exemption for persons over age 70 so that they might  
 16 present a voters certificate as acceptable ID for  
 17 voting?  
 18 A. I believe we talked about this.  
 19 Q. Okay. And that exception was not included in  
 20 the version that was passed by the House, correct?  
 21 A. I believe we discussed that, yes.  
 22 Q. And I wanted to ask you, putting aside your  
 23 thought process and your deliberations, just as a  
 24 separate stand-alone matter, how -- what is the  
 25 connection between voter fraud and persons over 70

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1 presenting a voter certificate?  
 2 MR. BRISSENDEN: That question, I  
 3 believe, would require the witness to divulge his  
 4 thought processes, communications, his deliberations,  
 5 his views about the purpose of that particular  
 6 exemption, and I would instruct the witness not to  
 7 answer the question.  
 8 THE WITNESS: I don't know how to answer  
 9 that without breaking privilege.  
 10 Q. (BY MS. PERALES) Okay. Do you recall whether  
 11 there was a vote by the House, a record vote, on  
 12 removing the exemption for persons over age 70?  
 13 A. Yeah. We discussed it earlier. We went over  
 14 that amendment.  
 15 Q. Do you recall whether there was a record vote  
 16 on that?  
 17 A. I believe there was. I believe we discussed  
 18 it earlier in the deposition.  
 19 Q. Is it possible that it was -- that the change  
 20 was made at the agreement of the sponsor of the bill  
 21 and there was no record vote on the exemption?  
 22 MR. BRISSENDEN: I'm going to instruct  
 23 you, to the extent you can answer that question as a  
 24 matter of public record, you may do so. To the extent  
 25 that it requires you to divulge communications from

<p style="text-align: center;">285</p> <p>1 legislators, I instruct you not to answer.</p> <p>2 Q. (BY MS. PERALES) And I'm only asking about</p> <p>3 the public record here. I'm not asking about --</p> <p>4 A. No, no, I understand.</p> <p>5 MS. PERALES: And the representative</p> <p>6 knows that there is a process on the House floor.</p> <p>7 THE WITNESS: No, no, I know that.</p> <p>8 MS. PERALES: -- regarding making</p> <p>9 changes.</p> <p>10 THE WITNESS: My point is I know we</p> <p>11 discussed it earlier.</p> <p>12 Q. (BY MS. PERALES) I'm just trying to fix it.</p> <p>13 A. I can't remember whether there was a vote or</p> <p>14 not. I can't believe there wouldn't have been. Wasn't</p> <p>15 there -- didn't we talk about that? There was a vote.</p> <p>16 Q. There was a vote?</p> <p>17 A. Correct.</p> <p>18 Q. Okay. And did you -- how did you vote on</p> <p>19 that?</p> <p>20 A. Being it was my amendment, I voted for it.</p> <p>21 Q. Oh, okay.</p> <p>22 MS. PERALES: Let's go ahead and mark</p> <p>23 this.</p> <p>24 (Rodriguez Exhibit No. 36 marked)</p> <p>25 THE WITNESS: Let me clarify my earlier</p>	<p style="text-align: center;">287</p> <p>1 to Page 70.</p> <p>2 A. Okay.</p> <p>3 Q. Go ahead and look at Page 70, Lines 11 and 12,</p> <p>4 which is still you speaking.</p> <p>5 A. Yes.</p> <p>6 Q. I'll move past the part about how your mom</p> <p>7 married a younger man, when you told the whole world</p> <p>8 about it there on the floor.</p> <p>9 A. Certainly.</p> <p>10 Q. And is it correct there that you say, "So</p> <p>11 there's no need to set a line of age that says beyond</p> <p>12 that age you don't need an ID to go cast a ballot"?</p> <p>13 A. That's correct, leaving out previous</p> <p>14 statements.</p> <p>15 Q. Yes. I figured that was just kind of the sum</p> <p>16 of what you were saying there.</p> <p>17 A. Possibly.</p> <p>18 Q. Is it fair to say, then, based on this</p> <p>19 statement, that you are saying there were other</p> <p>20 provisions in the bill that you thought were sufficient</p> <p>21 to protect older voters?</p> <p>22 MR. BRISSENDEN: I'm going to instruct</p> <p>23 the witness that the question requires -- to the extent</p> <p>24 requires you to divulge your opinions, your thought</p> <p>25 processes, your analysis, mental impressions about the</p>
<p style="text-align: center;">286</p> <p>1 statement. When I say I voted for it, I don't</p> <p>2 recall -- I didn't look closely if there was a motion</p> <p>3 to table, which in turn I may have voted against a</p> <p>4 motion to table, which obviously would have been</p> <p>5 considered a vote in favor of the amendment. So I</p> <p>6 don't recall specifically whether it was a motion to</p> <p>7 table or an up and down vote.</p> <p>8 Q. (BY MS. PERALES) Is it possible that an</p> <p>9 amendment can survive a motion to table and then never</p> <p>10 experience a record vote because --</p> <p>11 A. Absolutely.</p> <p>12 Q. -- because the author agrees?</p> <p>13 A. Yes. But legislatively speaking, the motion</p> <p>14 to table is considered a record vote.</p> <p>15 Q. Got it.</p> <p>16 A. Many a campaigns have been run where it's been</p> <p>17 hard to dodge that.</p> <p>18 Q. Okay. And you mentioned that your vote was in</p> <p>19 support of the amendment?</p> <p>20 A. Correct, absolutely.</p> <p>21 Q. Go ahead and take a look at Rodriguez --</p> <p>22 A. 36.</p> <p>23 Q. -- 36 for me on Page 69, going over to 70.</p> <p>24 And that's just to give you some -- some context. You</p> <p>25 begin speaking on 69 at Page 16, and then it flows over</p>	<p style="text-align: center;">288</p> <p>1 legislation of that particular provision of S.B. 14, I</p> <p>2 would instruct you not to answer the question.</p> <p>3 Q. (BY MS. PERALES) I'm just asking for the</p> <p>4 summary of your statement here.</p> <p>5 A. We have other provisions in this bill that</p> <p>6 provided exemptions to individuals that may be in their</p> <p>7 later years, that are indigent, may be handicapped with</p> <p>8 disabilities, that could allow them to be precluded</p> <p>9 from using an ID.</p> <p>10 Q. All right. Let me step back a little bit from</p> <p>11 S.B. 14.</p> <p>12 During 2009 and 2011, did you receive</p> <p>13 communications from constituents or third parties</p> <p>14 expressing concerns about noncitizen voter fraud?</p> <p>15 MR. BRISSENDEN: Can you clarify when you</p> <p>16 say "third parties"?</p> <p>17 Q. (BY MS. PERALES) People who are not in the</p> <p>18 legislature, people to whom privilege does not apply.</p> <p>19 These are just people out there in the world, whether</p> <p>20 they live in your district or don't.</p> <p>21 A. I'm sure I did. I don't know. I mean, I</p> <p>22 shouldn't say I'm sure I did. The record would either</p> <p>23 reflect that or not. I mean, you would have those</p> <p>24 documents.</p> <p>25 Q. Well, we don't have all of the communications</p>

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1 because you mentioned that some of the e-mails  
 2 regularly dealt with. And so I'm hoping you'll be able  
 3 to search your memory and tell me whether in 2009 and  
 4 2011 you received nonprivileged communications from  
 5 either constituents or interest groups or others  
 6 expressing concern about noncitizen election fraud.  
 7 A. Actually, I don't believe I did.  
 8 Q. You don't remember anybody coming to you --  
 9 A. I remember saying I don't think anyone did.  
 10 Q. Okay. So you remember, and nobody came to you  
 11 with those concerns?  
 12 A. I believe that's correct.  
 13 Q. If somebody did try to express that concern to  
 14 you in writing, where would those communications be  
 15 today?  
 16 A. I don't understand.  
 17 Q. Would they be in your files, would they have  
 18 been in your e-mail, would they have been produced  
 19 today?  
 20 A. They would have been produced.  
 21 Q. Okay. Do you remember people expressing those  
 22 concerns earlier than 2009 --  
 23 A. I can't remember --  
 24 Q. -- let's say 2007.  
 25 A. I don't recall dinner last night, so I don't

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1 know.  
 2 MS. PERALES: Go ahead and mark this,  
 3 please.  
 4 (Rodriguez Exhibit No. 37 marked)  
 5 Q. (BY MS. PERALES) Representative Bonnen, you  
 6 have been handed what has been marked Rodriguez  
 7 Exhibit 37. Do you recognize this as correspondence to  
 8 your office?  
 9 A. I do.  
 10 Q. Okay. Can you take a look at that line where  
 11 the writer says -- it's not in the first paragraph --  
 12 well, in the first paragraph, do you see where it says,  
 13 "I feel cheated as an American and Texan that our Texas  
 14 Congress couldn't get voter ID passed"?  
 15 A. I see that.  
 16 Q. Do you see in the next paragraph where it  
 17 says, "So basically our saying, you have to have an ID  
 18 to drive and purchase liquor, but forget about voting  
 19 proof of citizenship"?  
 20 A. I see where a constituent wrote that.  
 21 Q. Okay. Does this help refresh your  
 22 recollection whether you received communications from  
 23 either constituents or other persons not in the  
 24 legislature expressing concern about noncitizen voter  
 25 fraud?

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1 A. Well, I wish I could say that the  
 2 correspondence on 6/18 of 2007 from Mr. Murphy, who has  
 3 a rather extreme view, is etched in my brain, but it's  
 4 not.  
 5 MS. PERALES: Let's go ahead and mark  
 6 this.  
 7 (Rodriguez Exhibit No. 38 marked)  
 8 Q. (BY MS. PERALES) The court reporter has  
 9 handed you what has been marked Rodriguez Deposition  
 10 Exhibit 38. Do you recognize this as a letter from you  
 11 back to Mr. Murphy?  
 12 A. It appears to be, yes.  
 13 Q. Okay. It's also from 2007, isn't it?  
 14 A. It appears to be, yes.  
 15 Q. Now, in the first paragraph, is it true that  
 16 you're talking to him about H.B. 218 and H.B. 626?  
 17 A. It does.  
 18 Q. Okay. And you describe H.B. 626 as requiring  
 19 a voter applicant to prove US citizenship?  
 20 A. It does.  
 21 Q. And in the next paragraph, is it true here  
 22 where you say, "I am just as frustrated as you are at  
 23 the outcome of these bills," that you're expressing  
 24 frustration that these two bills didn't make it through  
 25 the legislature.

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1 A. I want to be very clear --  
 2 MR. BRISSENDEN: Objection to the extent  
 3 that the question mischaracterizes the statement --  
 4 Q. (BY MS. PERALES) You may answer.  
 5 A. I am expressing frustration bills did not  
 6 pass. But it doesn't adopt his views.  
 7 Q. Oh, no. I'm certainly not suggesting that you  
 8 were.  
 9 A. I appreciate that.  
 10 Q. But it seems to me that at least at this time  
 11 the issue is on your radar screen in terms of  
 12 communications with either constituents or third  
 13 parties.  
 14 A. What issue?  
 15 Q. The issue of noncitizen voter fraud. Someone  
 16 is writing to you with that concern, you're responding,  
 17 expressing frustration. Would it be fair to say, then,  
 18 that --  
 19 A. No.  
 20 Q. -- the issue was coming up --  
 21 A. No.  
 22 Q. It was not coming up?  
 23 A. Right.  
 24 Q. Okay. Can you explain that answer since we're  
 25 looking at some exhibits?

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1 A. Certainly. I represent 140-, -50,000 people,  
2 and one individual writes a letter. I have a policy in  
3 my office that we respond to every single constituent  
4 letter, and this is our response to one of 140-plus  
5 thousand people.

6 Q. Uh-huh. Were you a supporter of H.B. 626?

7 A. Absolutely.

8 Q. Okay. And were you frustrated when it didn't  
9 pass?

10 A. I was.

11 Q. Okay. And did you share that with Mr. Murphy  
12 in Lake Jackson?

13 A. I certainly did.

14 Q. Is Lake Jackson in your district?

15 A. It absolutely is.

16 Q. Okay. So Mr. Murphy is a constituent?

17 A. As I have already stated, yes.

18 Q. Okay.

19 MR. BRISSENDEN: I believe we have been  
20 going for about an hour and a half. Can we take a  
21 short break?

22 MS. PERALES: Yes.

23 (Recess from 6:44 p.m. to 7:00 p.m.)

24 MS. BERKOWER: Okay. Ms. Perales asked  
25 me to make a note that she had to leave to return home

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1 Q. What did you mean by "restores our basic  
2 principle"?

3 A. I mean what I wrote.

4 Q. Had the basic principle of one person, one  
5 vote somehow been abrogated in some way?

6 MR. BRISSENDEN: I would like to instruct  
7 the witness that to the extent that that question  
8 requires him to divulge mental impressions, analysis,  
9 mental thoughts that you had pre-enactment of S.B. 14  
10 in your analysis of S.B. 14, I would instruct you not  
11 to answer that question.

12 THE WITNESS: I agree.

13 Q. (BY MS. BERKOWER) You're following his  
14 advice?

15 A. Yes, ma'am.

16 Q. You said in Paragraph 3 there, "Despite some  
17 of the vocal and misleading rhetoric opposing the voter  
18 ID act, this vote is based on a simple and nonobtrusive  
19 principle," and you go on to talk about what.

20 What was the vocal and misleading  
21 rhetoric that you were referring to?

22 MR. BRISSENDEN: First of all, for  
23 clarification, what are you referring to?

24 MS. BERKOWER: The first sentence of the  
25 third paragraph.

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1 and she passed the witness back to me.

2 EXAMINATION (CONTINUED)

3 BY MS. BERKOWER:

4 Q. So after S.B. 14 passed the House, did you --  
5 do you remember if you issued another one of the  
6 Insider's Reports, one of your newsletters to  
7 constituents about the bill's passage?

8 A. I'm sure I did.

9 (Exhibit No. 446 marked)

10 Q. (BY MS. BERKOWER) I have what's marked as  
11 Exhibit 446.

12 A. Thank you.

13 Q. Do you remember this document?

14 A. Vaguely.

15 Q. What is it?

16 A. It is Insider's Report, Volume 8, No. 7, about  
17 House passes voter ID bill, dated March 25th of 2011.

18 Q. And that was after the House passed S.B. 14?

19 A. Correct.

20 Q. Do you see the second line of the first  
21 paragraph says, Senate Bill 14, which I co-sponsored,  
22 restores the basic principle of one person, one vote  
23 within our electoral system by requiring a photo ID to  
24 cast ballot?"

25 A. I do.

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1 MR. BRISSENDEN: And my instruction to  
2 you would be the same.

3 THE WITNESS: I agree.

4 MS. BERKOWER: And to clarify, what was  
5 the instruction?

6 MR. BRISSENDEN: The instruction is to  
7 the extent that the question requires the witness to  
8 disclose his thoughts, his mental impressions, his  
9 motivations, his opinions about S.B. 14 and analysis  
10 pre-enactment, I would instruct him not to answer.

11 Q. (BY MS. BERKOWER) Okay. Well, maybe I'll ask  
12 this: Was the vocal and misleading rhetoric you are  
13 referring to there available publicly as part of the  
14 public record?

15 A. It could have been at times.

16 Q. Do you remember which vocal and misleading  
17 rhetoric is part of the public record?

18 A. Testimony that the bill was to attack people  
19 in this country illegally.

20 Q. So rhetoric about noncitizen voting was  
21 misleading? Is that what your -- public testimony  
22 about noncitizen voters?

23 A. Despite some of the vocal, misleading rhetoric  
24 opposing that bill, opposing the voter ID act, this  
25 bill is based on the simple and nonobtrusive premise

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1 that Texans should provide a photo ID to vote, just as  
2 they present identification to open a bank account and  
3 such.

4 Q. Okay. And then I think I asked you if any of  
5 the local and misleading rhetoric you are referring to  
6 there was part of the public record, and you said yes.  
7 So which parts of the public record contain the vocal  
8 and misleading rhetoric that you are referring to  
9 there?

10 A. I don't have the record in front of me. But  
11 it usually would have been comments made on the floor  
12 or witnesses who came before committees to testify.

13 Q. What were those comments; do you remember?

14 A. Not specifically, no.

15 Q. And then you said, as you read just now, "This  
16 bill is based on a simple and nonobtrusive premise that  
17 Texans should provide a photo ID just as they  
18 identification to open a bank account, board a plane,  
19 obtain a fishing license, rent a car, or pick up a  
20 prescription at the pharmacy."

21 Is that accurate -- an accurate reading  
22 of that?

23 A. It is an accurate reading.

24 Q. Do you have a right to open a bank account?

25 MR. BRISSENDEN: I'm going to object to

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1 extent the question as vague.

2 Q. (BY MS. BERKOWER) You can answer that.

3 A. I don't understand the question.

4 Q. Do you have a constitutional right to vote?

5 A. You do.

6 Q. Do you have a constitutional right to open a  
7 bank account?

8 A. I don't believe it's stated in the  
9 constitution.

10 Q. Do you have a constitutional right to board a  
11 plane?

12 A. Some people would argue you might.

13 Q. Do you have a constitutional right to obtain a  
14 fishing license?

15 A. Again, some people might argue you do.

16 Q. Would you?

17 A. That gets into speculation.

18 Q. You may speculate.

19 MR. BRISSENDEN: I'm going to instruct  
20 the witness not to speculate.

21 MS. BERKOWER: Well --

22 MR. BRISSENDEN: I object to the question  
23 to the extent it requires him to speculate. It also  
24 requires the witness to -- it calls for a legal  
25 conclusion, and I object on those grounds as well.

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1 Q. (BY MS. BERKOWER) Okay. Well, have you ever  
2 read the US Constitution?

3 A. Sure.

4 Q. So based on your reading of that -- I'm not  
5 asking for any legal conclusion -- but do you recall  
6 anything in there that would give you a constitutional  
7 right to obtain a fishing license?

8 MR. BRISSENDEN: Same objection.

9 Q. (BY MS. BERKOWER) You may answer.

10 A. I would prefer not to.

11 MS. BERKOWER: All right. I'll note for  
12 the record that answer is nonresponsive.

13 Q. (BY MS. BERKOWER) Do you have a  
14 constitutional right to rent a car?

15 A. Again, you could argue you do.

16 MR. BRISSENDEN: Same objection.

17 Q. (BY MS. BERKOWER) Would you argue that you  
18 do?

19 MR. BRISSENDEN: Same objection.

20 Q. (BY MS. BERKOWER) Are you not going to answer  
21 the question?

22 A. That is correct.

23 Q. Do you have a constitutional right to pick up  
24 prescriptions at the pharmacy?

25 A. Again, you could argue you do.

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1 Q. What would those arguments be?

2 MR. BRISSENDEN: Same objection, legal  
3 conclusion.

4 THE WITNESS: I agree with the objection.

5 MS. BERKOWER: Okay. That answer is  
6 nonresponsive. I would ask the witness to answer the  
7 question presented, please.

8 Q. (BY MS. BERKOWER) Are you refusing to answer?

9 A. Could you repeat the question.

10 Q. Do you have a constitutional right to pick up  
11 a prescription at the pharmacy?

12 MR. BRISSENDEN: Same objection. To the  
13 extent that the witness has not conducted an analysis  
14 to make that determination, he may not be able to  
15 answer the question.

16 Do you know if you are able to answer the  
17 question?

18 THE WITNESS: I do not.

19 Q. (BY MS. BERKOWER) So is your answer you don't  
20 know if you have a constitutional right to pick up a  
21 prescription at the pharmacy?

22 A. My previous answer is I believe there are  
23 people who would argue they do.

24 Q. Well, I'm not asking about other people. I'm  
25 asking about you. Do you believe that you have a

<p style="text-align: center;">301</p> <p>1 constitutional right to pick up a prescription at the</p> <p>2 pharmacy?</p> <p>3 MR. BRISSENDEN: My objection would be</p> <p>4 the same, if you are able to answer. If you don't</p> <p>5 know, you don't know.</p> <p>6 THE WITNESS: I don't know.</p> <p>7 Q. (BY MS. BERKOWER) Do you know anyone who has</p> <p>8 made such arguments, that you have a constitutional</p> <p>9 right to do any of the things we have just discussed,</p> <p>10 other than vote?</p> <p>11 A. I actually do.</p> <p>12 Q. Who are those people?</p> <p>13 A. Constituents of mine.</p> <p>14 Q. Which constituents?</p> <p>15 A. I don't have the names in front of me.</p> <p>16 Q. Are you aware of any existing document or</p> <p>17 report that identifies how many Texas voters are in</p> <p>18 possession of a concealed handgun license? And I will</p> <p>19 limit that to the public record.</p> <p>20 MR. BRISSENDEN: Thank you.</p> <p>21 THE WITNESS: Am I aware of one?</p> <p>22 Q. (BY MS. BERKOWER) Yes.</p> <p>23 A. I'm sure one exists but I'm not aware of it.</p> <p>24 Q. What makes you sure it exists?</p> <p>25 A. Because we keep records here in the State of</p>	<p style="text-align: center;">303</p> <p>1 during the legislative debate on S.B. 14 that helps</p> <p>2 form -- well, I'll leave it there -- during the</p> <p>3 legislative debate on S.B. 14.</p> <p>4 Do you want me to restart that question?</p> <p>5 A. Please.</p> <p>6 Q. Could you identify each report or analysis</p> <p>7 that was given to House members as part of the public</p> <p>8 record during the legislative debate on S.B. 14?</p> <p>9 A. I can't, no.</p> <p>10 Q. Do you remember receiving such reports?</p> <p>11 A. I don't know which ones you are referring to.</p> <p>12 I mean, I certainly receive information. I don't know</p> <p>13 specifically what reports or what information that I</p> <p>14 have.</p> <p>15 Q. Do you believe that S.B. 14 will have a</p> <p>16 negative impact on minority voters?</p> <p>17 MR. BRISSENDEN: Objection, privileged.</p> <p>18 Instruct the witness not to answer.</p> <p>19 Q. (BY MS. BERKOWER) Are you aware of any</p> <p>20 publicly available studies or analysis that would</p> <p>21 support your position that S.B. 14 would enhance public</p> <p>22 confidence in elections? I did limit the question to</p> <p>23 the public record.</p> <p>24 A. I don't specifically know, but I believe some</p> <p>25 have been presented.</p>
<p style="text-align: center;">302</p> <p>1 Texas of those licenses.</p> <p>2 Q. Are you aware if there is any publicly</p> <p>3 available document that says how many minority Texans,</p> <p>4 black or Hispanic, are in possession of a concealed</p> <p>5 handgun license?</p> <p>6 MR. BRISSENDEN: Again, your question is</p> <p>7 unlimited to what is in the public record.</p> <p>8 MS. BERKOWER: Yes. I said any publicly</p> <p>9 available document.</p> <p>10 THE WITNESS: I don't know.</p> <p>11 Q. (BY MS. BERKOWER) Are you aware of any</p> <p>12 publicly existing document or report that identifies</p> <p>13 how many minority Texans are in possession of a US</p> <p>14 military card?</p> <p>15 A. Again, I personally am not aware.</p> <p>16 Q. Are you aware of any existing document or</p> <p>17 report that identifies how many Texas voters are in</p> <p>18 possession of a passport?</p> <p>19 MR. BRISSENDEN: Objection. Again, the</p> <p>20 question is not limited to the public --</p> <p>21 Q. (BY MS. BERKOWER) Limited to public record.</p> <p>22 A. Again, I -- these are not areas of my</p> <p>23 expertise. I don't know.</p> <p>24 Q. Could you identify each report or analysis</p> <p>25 that was presented to you as part of the public record</p>	<p style="text-align: center;">304</p> <p>1 Q. Have you publicly supported this lawsuit?</p> <p>2 MR. BRISSENDEN: Objection, vague.</p> <p>3 Q. (BY MS. BERKOWER) Have you issued public</p> <p>4 statements that support Texas' efforts in this lawsuit?</p> <p>5 MR. BRISSENDEN: Same objection.</p> <p>6 THE WITNESS: I probably have, but I'm</p> <p>7 not positive.</p> <p>8 MS. BERKOWER: This will be Exhibit 447.</p> <p>9 (Exhibit No. 477 marked)</p> <p>10 Q. (BY MS. BERKOWER) Do you know what this is?</p> <p>11 A. It appears to be a portion, or maybe in total,</p> <p>12 a post, it seems -- although I'm confused why it would</p> <p>13 be a post at 2:00 a.m. on January 24th of 2012 -- in</p> <p>14 The Facts news. I think it would have been a news</p> <p>15 article, but it doesn't appear to be.</p> <p>16 Q. What is the title of this?</p> <p>17 A. Well, it's confusing. The title is "Voter ID</p> <p>18 push has Bonnen's backing," but it's presented as</p> <p>19 posted Tuesday, January 24th, 2012, at 2:00 a.m. It</p> <p>20 seems to be incomplete.</p> <p>21 Q. Okay. Well, does this document quote you?</p> <p>22 A. It does.</p> <p>23 Q. Does it quote you about this lawsuit?</p> <p>24 A. It states, "State Representative Dennis Bonnen</p> <p>25 fully supports Texas Attorney General Greg Abbott's</p>

<p style="text-align: center;">321</p> <p>1 that this availability of a free photo ID addresses</p> <p>2 your concern of cost in obtaining a photo ID?</p> <p>3 A. Correct.</p> <p>4 Q. Didn't we discuss earlier that S.B. 14 may</p> <p>5 require documents that cost money in order to obtain</p> <p>6 the free photo ID?</p> <p>7 MR. BRISENDEN: Objection, asked</p> <p>8 answered. We have covered that already.</p> <p>9 Q. (BY MS. BERKOWER) Do you remember when we</p> <p>10 discussed that and you agreed that if the underlying</p> <p>11 documentation costs money, then the ID would</p> <p>12 effectively cost money?</p> <p>13 A. Respectfully, I think that I was answering the</p> <p>14 question of a constituent who said that it could cost</p> <p>15 somebody money to go get an ID, and he was unaware of</p> <p>16 the fact that in the legislation a free ID is offered</p> <p>17 to someone.</p> <p>18 Now, are you correct that earlier we</p> <p>19 discussed that there could be underlying documents</p> <p>20 requiring -- could be, not guaranteed, but could be --</p> <p>21 that may cost money, that is accurate. Does that make</p> <p>22 the statement in this letter I'm inaccurate? It does</p> <p>23 not.</p> <p>24 Q. Does it make it slightly misleading?</p> <p>25 A. Not at all.</p>	<p style="text-align: center;">323</p> <p>1 THE WITNESS: Thank you.</p> <p>2 (Proceedings concluded at 7:35 p.m.)</p> <p>3</p> <p>4</p> <p>5</p> <p>6 -- SIGNATURE REQUIRED --</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11 * * * * *</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: center;">322</p> <p>1 MS. BERKOWER: Okay. We're leaving this</p> <p>2 open and pending due to the fact that we got these</p> <p>3 documents late and also due to the lengthy objections</p> <p>4 of counsel.</p> <p>5 MR. BRISENDEN: For the record,</p> <p>6 documents that were produced today were produced</p> <p>7 actually early, before the Court's order that required</p> <p>8 us to produce it today.</p> <p>9 Ms. Westfall communicated with counsel in</p> <p>10 our office, and we made every effort to get these</p> <p>11 documents that she requested to you today before</p> <p>12 noontime so you could ask him questions this afternoon,</p> <p>13 which you have now had them for about seven hours to</p> <p>14 answer those questions. And so we accommodated your</p> <p>15 request and we got -- we focused on those documents.</p> <p>16 We had them here at noontime today.</p> <p>17 And, so in that regard, I don't believe</p> <p>18 the characterization that we were somehow late in</p> <p>19 producing them is accurate.</p> <p>20 MS. BERKOWER: You're late in producing</p> <p>21 them in that you improperly withheld them and we were</p> <p>22 required to seek a court order in order to obtain them.</p> <p>23 That's what I was referring to.</p> <p>24 MR. BRISENDEN: I disagree with your</p> <p>25 characterization.</p>	<p style="text-align: center;">324</p> <p>1 CHANGES AND SIGNATURE</p> <p>2 WITNESS NAME: DENNIS BONNEN</p> <p>3 DATE OF DEPOSITION: JUNE 6, 2012</p> <p>4 PAGE LINE CHANGE REASON</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

<p style="text-align: center;">1</p> <p style="text-align: center;">IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA</p> <p>STATE OF TEXAS, ) Plaintiff, ) VS. ) ERIC H. HOLDER, JR. in his ) official capacity as Attorney ) General of the United States, ) Defendant, ) ERIC KENNIE, et al, ) Defendant-Intervenors, ) TEXAS STATE CONFERENCE OF ) CASE NO. 1:12-CV-00128 NAACP BRANCHES, ) (RMC-DST-RLW) Defendant-Intervenors, ) Three-Judge Court TEXAS LEAGUE OF YOUNG VOTERS ) EDUCATION FUND, et al, ) Defendant-Intervenors, ) TEXAS LEGISLATIVE BLACK ) CAUCUS, et al, ) Defendant-Intervenors, ) VICTORIA RODRIGUEZ, et al., ) Defendant-Intervenors. ) ***** ORAL DEPOSITION OF STATE OF TEXAS 30(b)(6) WALTER SCOTT BRANDT JUNE 19, 2012 *****</p>	<p style="text-align: center;">3</p> <p style="text-align: center;">A P P E A R A N C E S</p> <p>1 FOR THE PLAINTIFF, STATE OF TEXAS, AND THE WITNESS: 2 Reynolds Brissenden 3 Patrick K. Sweeten 4 OFFICE OF THE ATTORNEY GENERAL OF TEXAS P.O. Box 12548 5 Austin, TX 78711-2548 6 209 West 14th Street 8th Floor 7 Austin, TX 78701 (512) 936-1307 8 patrick.sweeten@texasattorneygeneral.gov reynolds.brissenden@texasattorneygeneral.gov 9 10 FOR THE DEFENDANT, HOLDER, ET AL: 11 Daniel Freeman Victor Williamson 12 U.S. DEPARTMENT OF JUSTICE 950 Pennsylvania Avenue, NW 13 NWB - Room 7202 Washington, DC 20530 14 (202) 305-7766 daniel.freeman@usdoj.gov 15 16 17 18 19 20 21 22 23 24 25</p>
<p style="text-align: center;">2</p> <p>1 ORAL DEPOSITION OF WALTER SCOTT BRANDT, produced as 2 a witness at the instance of the Defendant, was duly 3 sworn, was taken in the above-styled and numbered cause 4 on the JUNE 19, 2012, from 9:50 a.m. to 10:55 a.m., 5 before Chris Carpenter, CSR, in and for the State of 6 Texas, reported by machine shorthand, at the Offices of 7 the Texas Attorney General, 209 West 14th Street, 6th 8 Floor, Austin, TX 78701, pursuant to the Federal Rules 9 of Civil Procedure and the provisions stated on the 10 record or attached hereto. 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p style="text-align: center;">4</p> <p style="text-align: center;">I N D E X</p> <p>1 Appearances.....3 2 WALTER SCOTT BRANDT 3 Examination by Mr. Freeman.....5 4 Signature and Changes.....45 5 Reporter's Certificate.....47 6 EXHIBIT INDEX 7 970 DOJ Project Requirements 19 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>

<p style="text-align: center;">5</p> <p>1 THE COURT REPORTER: Will counsel please</p> <p>2 make their announcements, and then I will swear in the</p> <p>3 witness.</p> <p>4 MR. FREEMAN: Daniel Freeman on behalf of</p> <p>5 the Defendant Attorney General Eric H. Holder, Jr.</p> <p>6 MR. WILLIAMSON: I'm Victor Williamson</p> <p>7 with the U.S. Department of Justice.</p> <p>8 MR. BRISSENDEN: Reynolds Brissenden for</p> <p>9 the State of Texas and the witness, Mr. Brandt.</p> <p>10 And Dan, just before we get started, I</p> <p>11 just have a quick statement to make for the record.</p> <p>12 MR. FREEMAN: Sure.</p> <p>13 MR. BRISSENDEN: As this is a 30(b)(6)</p> <p>14 deposition, we have designated -- the State of Texas is</p> <p>15 designating Mr. Brandt here this morning, presenting him</p> <p>16 for Topic Number 11 of the Attorney General's Notice of</p> <p>17 Rule 30(b)(6) Deposition Notice, to discuss the process,</p> <p>18 manner, and method of compiling, cleaning, and filtering</p> <p>19 data from the TEAM voter registration database and</p> <p>20 producing such data to the Attorney General and</p> <p>21 Defendant Intervenors in this litigation.</p> <p>22 MR. FREEMAN: Thank you.</p> <p>23 WALTER SCOTT BRANDT,</p> <p>24 having been first duly sworn to testify the truth, the</p> <p>25 whole truth, and nothing but the truth, testified as</p>	<p style="text-align: center;">7</p> <p>1 understand?</p> <p>2 A. Yes.</p> <p>3 Q. If you need to take a break, please tell me,</p> <p>4 and we'll finish up the question and see about a break.</p> <p>5 Is that all right?</p> <p>6 A. Yes.</p> <p>7 Q. Thank you.</p> <p>8 If you need to get up for a new bottle of</p> <p>9 water, which the Office of the Attorney General has</p> <p>10 kindly provided, that's fine, but please do so after --</p> <p>11 between answers after you've answered. Is that all</p> <p>12 right?</p> <p>13 A. Yes.</p> <p>14 Q. If you want to talk to your attorney, that's</p> <p>15 fine, but if there's a question pending or you're in the</p> <p>16 middle of the answer, please finish that up first, and</p> <p>17 then you can talk to your attorney. Is that all right?</p> <p>18 A. Yes.</p> <p>19 Q. Sometimes you may remember things later in the</p> <p>20 deposition, after I have asked additional questions. If</p> <p>21 that happens, please let me know while it's on your</p> <p>22 mind, and we'll add it to the record. Will you do that?</p> <p>23 A. Yes.</p> <p>24 Q. And I'll give you a chance to do that at the</p> <p>25 end as well. Sometimes after we have been talking for a</p>
<p style="text-align: center;">6</p> <p>1 follows:</p> <p>2 EXAMINATION</p> <p>3 BY MR. FREEMAN:</p> <p>4 Q. Sir, could you state your name for the record.</p> <p>5 A. My name is Walter Scott Brandt.</p> <p>6 Q. Thank you. My name is Dan Freeman, and with me</p> <p>7 is my colleague, Victor, and your counsel has already</p> <p>8 introduced himself, and I'm sure you know him already.</p> <p>9 A. Uh-huh.</p> <p>10 Q. Have you ever been deposed before?</p> <p>11 A. No, I haven't.</p> <p>12 Q. So a deposition works in the form of a question</p> <p>13 and answer, and the court reporter needs to be able to</p> <p>14 record your answers, so you need to articulate rather</p> <p>15 than gesture, you know, shrug, nod your head, et cetera.</p> <p>16 Do you understand?</p> <p>17 A. Okay. Yes.</p> <p>18 Q. The purpose of the deposition is to obtain your</p> <p>19 full and complete answers, so I need you to respond</p> <p>20 fully to the extent of your knowledge to each of my</p> <p>21 questions. Do you understand?</p> <p>22 A. Yes.</p> <p>23 Q. I may not always be clear in my questioning.</p> <p>24 If you don't understand, please ask me to restate my</p> <p>25 question, and I'll try and be clearer. Do you</p>	<p style="text-align: center;">8</p> <p>1 while, you'll realize that a prior answer was not</p> <p>2 entirely accurate. If you realize that, will you let me</p> <p>3 know so that we can correct the record?</p> <p>4 A. Yes.</p> <p>5 Q. Sometimes while you're answering, you may think</p> <p>6 of a document that would help you remember or help you</p> <p>7 answer more accurately, if you do, please let me know.</p> <p>8 We have a few documents here, and if we don't have it</p> <p>9 here, we may be able to get it in order to help you. Is</p> <p>10 that correct okay?</p> <p>11 A. Yes.</p> <p>12 Q. Are you on any medication or drugs of any kind</p> <p>13 that might make it difficult for you to understand or</p> <p>14 answer questions today?</p> <p>15 A. No.</p> <p>16 Q. Have you had anything alcoholic to drink in the</p> <p>17 last eight hours?</p> <p>18 A. No.</p> <p>19 Q. Are you at all sick today?</p> <p>20 A. No.</p> <p>21 Q. Are you currently under a doctor's care for any</p> <p>22 illness that would impede your ability to answer</p> <p>23 questions today?</p> <p>24 A. No.</p> <p>25 Q. Is there any other reason you can think of why</p>

<p style="text-align: center;">9</p> <p>1 you will not be able to answer my questions fully and</p> <p>2 accurately?</p> <p>3 A. No.</p> <p>4 Q. And the last thing: I want to remind you that</p> <p>5 you're under oath and subject to federal penalties for</p> <p>6 giving false or misleading testimony, so it's important</p> <p>7 to answer my questions truthfully, accurately, and</p> <p>8 completely. Do you understand?</p> <p>9 A. Yes.</p> <p>10 Q. Any questions so far?</p> <p>11 A. No.</p> <p>12 Q. Okay. Thanks.</p> <p>13 Do you understand that you are testifying</p> <p>14 on behalf of the State of Texas and not in your</p> <p>15 individual capacity?</p> <p>16 A. Yes.</p> <p>17 Q. What is your position?</p> <p>18 A. I'm the IT, Information Technology Director for</p> <p>19 the Texas Secretary of State's Office.</p> <p>20 Q. And does that give you supervisory authority</p> <p>21 over the Department of Elections?</p> <p>22 A. No, it does not.</p> <p>23 Q. Do they have separate IT staff, or are their IT</p> <p>24 staff part of your staff?</p> <p>25 A. My staff are the IT staff for the agency.</p>	<p style="text-align: center;">11</p> <p>1 technology capacity?</p> <p>2 A. Yes.</p> <p>3 Q. What was your position?</p> <p>4 A. I started at the Employment Commission as a --</p> <p>5 well, my position was temporary interviewer. It was not</p> <p>6 information technology.</p> <p>7 Q. Okay.</p> <p>8 A. I was working on the extended unemployment</p> <p>9 claims process.</p> <p>10 Q. Okay.</p> <p>11 A. I moved over to information technology as a PC</p> <p>12 support person, and held various positions in</p> <p>13 information technology, up to and including the Director</p> <p>14 of Distributed Systems at the Workforce Commission.</p> <p>15 Q. And that was prior to your leaving for Applied</p> <p>16 Materials?</p> <p>17 A. No. I did a year at Applied Materials in</p> <p>18 between those.</p> <p>19 Q. Okay. And what was your position at Applied</p> <p>20 Materials?</p> <p>21 A. I was a quality assurance technologist, I</p> <p>22 believe.</p> <p>23 Q. Okay. Can you explain --</p> <p>24 A. Yes.</p> <p>25 Q. -- very briefly what that meant?</p>
<p style="text-align: center;">10</p> <p>1 Q. Okay.</p> <p>2 A. All departments. It's a centralized IT.</p> <p>3 Q. Okay. Thank you.</p> <p>4 How long have you held your position?</p> <p>5 A. I have been the IT director at SOS since</p> <p>6 December of 2004.</p> <p>7 Q. And had you been in SOS prior to that?</p> <p>8 A. No.</p> <p>9 Q. What is your educational background?</p> <p>10 A. I have a bachelor of science degree in</p> <p>11 aerospace engineering from Texas A&amp;M University.</p> <p>12 Q. Okay. And since you graduated from college,</p> <p>13 what is your employment background?</p> <p>14 A. I have been employed most recently with the</p> <p>15 Texas Secretary of State. Before that, I was with the</p> <p>16 Texas Workforce Commission.</p> <p>17 Q. Okay.</p> <p>18 A. I worked briefly with Applied Materials here in</p> <p>19 Austin. Before that, I was with the Workforce</p> <p>20 Commission and the Employment Commission. The Texas</p> <p>21 Employment Commission became the Texas Workforce</p> <p>22 Commission. Before that, I worked as a substitute</p> <p>23 teacher in the Houston area.</p> <p>24 Q. Okay. And when you were working for the</p> <p>25 Employment Commission, was that in the information</p>	<p style="text-align: center;">12</p> <p>1 A. Applied Materials makes semiconductor</p> <p>2 manufacturing equipment.</p> <p>3 Q. Okay.</p> <p>4 A. Part of their manufacturing process is to have</p> <p>5 a quality department that goes in and performs quality</p> <p>6 checks on the equipment at various stages of production.</p> <p>7 Q. Okay.</p> <p>8 A. I was one of the guys that did those quality</p> <p>9 checks.</p> <p>10 Q. Okay. Sounds good.</p> <p>11 And then you returned to the Texas</p> <p>12 Workforce Commission, and the last position you had</p> <p>13 there before you left was what?</p> <p>14 A. Director of Distributed systems.</p> <p>15 Q. Okay. And what did that entail?</p> <p>16 A. It was an IT position. I was in charge of the</p> <p>17 groups responsible for the user support help desk,</p> <p>18 Windows servers, Unix servers, and data networking. I</p> <p>19 think that's it.</p> <p>20 Q. Okay. And then when you came over to the</p> <p>21 office of the Secretary of State, you were -- that was</p> <p>22 to become the head of IT, right?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. So it sounds like IT was a good fit for</p> <p>25 you.</p>

<p style="text-align: center;">13</p> <p>1 When did you first learn that you would be</p> <p>2 testifying on behalf of the State?</p> <p>3 A. Probably late last week.</p> <p>4 Q. Okay. This document has been previously marked</p> <p>5 in a prior deposition as U.S. Exhibit 830. Could you</p> <p>6 take a look at it for a moment?</p> <p>7 A. (Witness reviewing document.) Okay.</p> <p>8 Q. Okay. Have you seen that document before?</p> <p>9 A. Yes.</p> <p>10 Q. What is that document?</p> <p>11 A. I don't know the official term for it.</p> <p>12 Q. Is it a notice of deposition?</p> <p>13 A. I don't know.</p> <p>14 Q. Okay. Is there a list of topics in an appendix</p> <p>15 of an exhibit to that notice?</p> <p>16 A. Yes, there is.</p> <p>17 Q. And what topics are you prepared to testify</p> <p>18 about today within that list?</p> <p>19 A. Topic Number 11.</p> <p>20 Q. And for the record, could you read what that</p> <p>21 topic states?</p> <p>22 A. Yes. "The process, manner, and method of</p> <p>23 compiling, cleaning, and filtering data from the TEAM</p> <p>24 voter registration database and producing such data to</p> <p>25 the Attorney General and Defendant Intervenors in this</p>	<p style="text-align: center;">15</p> <p>1 not to talk over you, and if you can try to wait until I</p> <p>2 have finish my question, just for Chris's sake.</p> <p>3 A. Okay.</p> <p>4 Q. Chris has worked very hard, and I don't want to</p> <p>5 make his life any harder.</p> <p>6 And what did you discuss beyond the simple</p> <p>7 time line?</p> <p>8 A. We discussed when we produced the data and what</p> <p>9 that data was.</p> <p>10 Q. Okay. Did you review any documents?</p> <p>11 A. No.</p> <p>12 Q. Did you bring any documents with you here</p> <p>13 today?</p> <p>14 A. Just my notes, notes on the timeline.</p> <p>15 Q. And for the record, just so we don't have to</p> <p>16 bother with producing them, the first line of the note</p> <p>17 says "March 14, with SSN, DOJ, April 14, without SSN,</p> <p>18 INT." And then the third line says, "May voters,</p> <p>19 cancelled voters, count history." The next line says,</p> <p>20 "Arrow DOJ." The next lines says "Arrow INT." The next</p> <p>21 line says, "Arrow DOJ." And now we won't have to worry</p> <p>22 about productions or copies or anything like that.</p> <p>23 Thank you.</p> <p>24 Did you speak with anyone else about your</p> <p>25 deposition today?</p>
<p style="text-align: center;">14</p> <p>1 litigation."</p> <p>2 Q. Okay. What did you do to prepare for this</p> <p>3 deposition?</p> <p>4 A. I met with my lawyers, had a brief meeting with</p> <p>5 my staff to go over the timeline of the data that we</p> <p>6 have produced.</p> <p>7 Q. And when you met with your lawyers, when was</p> <p>8 that?</p> <p>9 A. Yesterday afternoon.</p> <p>10 Q. And who did you meet with?</p> <p>11 A. Excuse me. Yesterday morning.</p> <p>12 Q. Who did you meet with?</p> <p>13 A. Reynolds and Patrick.</p> <p>14 Q. Okay. Was anyone else present?</p> <p>15 A. No.</p> <p>16 Q. Okay. And when you met with your staff, who</p> <p>17 did you meet with?</p> <p>18 A. That was Lee Guyette and John Mendoza.</p> <p>19 Q. And where did you meet with them?</p> <p>20 A. In my office.</p> <p>21 Q. And was anyone else present --</p> <p>22 A. No.</p> <p>23 Q. -- besides those two?</p> <p>24 If possible, I know it's very hard for the</p> <p>25 court reporter if we talk over each other, so I will try</p>	<p style="text-align: center;">16</p> <p>1 A. I told several of my staff that I was going to</p> <p>2 be deposed, but I didn't speak with anyone regarding the</p> <p>3 content of it.</p> <p>4 Q. Okay. Great.</p> <p>5 What steps did you take, from beginning to</p> <p>6 end, to produce the data from the Office of the</p> <p>7 Secretary of State that you produced to the Department</p> <p>8 of Justice?</p> <p>9 MR. BRISSENDEN: Objection, vague.</p> <p>10 A. Which time?</p> <p>11 Q. (By MR. FREEMAN) Well, let's skip ahead, then.</p> <p>12 On what dates did you produce data to the</p> <p>13 Department of Justice?</p> <p>14 A. We produced data in March. I believe it was</p> <p>15 late March. We produced data in April. And we produced</p> <p>16 data in May.</p> <p>17 Q. And March, would that be March 30th?</p> <p>18 A. Could be.</p> <p>19 Q. And April, would that be April 2nd?</p> <p>20 A. I don't recall.</p> <p>21 Q. And May, would that be May 4th?</p> <p>22 A. Could be.</p> <p>23 Q. Was there one production in May or two?</p> <p>24 A. There were two for Department of Justice, I</p> <p>25 believe.</p>

<p style="text-align: center;">17</p> <p>1 Q. Were those May 4th and May 9th?</p> <p>2 A. I don't recall the dates.</p> <p>3 Q. And on what dates did you produce data to the</p> <p>4 Defendant Intervenors?</p> <p>5 A. I believe we produced data to the Intervenors</p> <p>6 in April and in May.</p> <p>7 Q. And in April, was that also April 2nd?</p> <p>8 A. I don't know the exact date.</p> <p>9 Q. And in May, was that May 8th?</p> <p>10 A. I don't recall the exact date.</p> <p>11 Q. All right. So let's start with March 30th.</p> <p>12 What steps did you take, prior to March 30th production,</p> <p>13 to produce the data that you produced to the Attorney</p> <p>14 General from the Office of the Secretary of State?</p> <p>15 A. Okay. The data that we produced in March was,</p> <p>16 I believe, a file with 14 fields. My staff wrote a</p> <p>17 program to extract those 14 data fields from our</p> <p>18 database, and saved them in a -- I believe was a comma</p> <p>19 separated value file. We provided the CSV comma</p> <p>20 separated value file to the Office of the Attorney</p> <p>21 General, and they provided it to the DOJ.</p> <p>22 Q. What database did the data originate in?</p> <p>23 A. It originated in our TEAM database, TEAM system</p> <p>24 database.</p> <p>25 Q. And is TEAM an acronym?</p>	<p style="text-align: center;">19</p> <p>1 A. I do not know.</p> <p>2 Q. Are you aware of what fields were produced to</p> <p>3 the Office of the Attorney General?</p> <p>4 A. For the March data?</p> <p>5 Q. Yes.</p> <p>6 A. I've seen a list of 14 fields.</p> <p>7 Q. Do you recall what they were?</p> <p>8 A. I do not recall them.</p> <p>9 Q. I'm going to put a document in front of you.</p> <p>10 Well, first, if I could have the court</p> <p>11 reporter mark this document at U.S. Exhibit 970.</p> <p>12 (U.S. Exhibit 970 marked for</p> <p>13 identification.)</p> <p>14 Q. (By MR. FREEMAN) Would you take a look at that</p> <p>15 document?</p> <p>16 A. (Witness reviewing document.) Okay.</p> <p>17 Q. Have you seen this document before?</p> <p>18 A. No.</p> <p>19 Q. Now, am I correct that this document sets out a</p> <p>20 protocol for matching databases, not for producing</p> <p>21 databases; am I correct?</p> <p>22 MR. BRISSENDEN: If you know.</p> <p>23 Q. (By MR. FREEMAN) If you know.</p> <p>24 A. I don't know.</p> <p>25 Q. Do you see on Page 3 a list of fields?</p>
<p style="text-align: center;">18</p> <p>1 A. Yes.</p> <p>2 Q. What does TEAM stand for?</p> <p>3 A. I believe it stands for Texas Election</p> <p>4 Administration Management.</p> <p>5 Q. Okay. Does the TEAM database consist of one</p> <p>6 table or multiple tables?</p> <p>7 A. It's multiple tables.</p> <p>8 Q. And what tables were the data at issue drawn</p> <p>9 from?</p> <p>10 A. I don't know.</p> <p>11 Q. What are the tables in the TEAM database?</p> <p>12 A. There are numerous tables. I'm not familiar</p> <p>13 with all of them.</p> <p>14 Q. What are the primary tables in the TEAM</p> <p>15 database?</p> <p>16 A. I don't know.</p> <p>17 Q. Okay. Does the program that your staff wrote</p> <p>18 to execute the March 30th data production still exist?</p> <p>19 A. I don't know.</p> <p>20 Q. Was the data produced on March 30th extracted</p> <p>21 from the TEAM database on that date or on a prior date?</p> <p>22 A. If it was produced on March 30th, it was</p> <p>23 probably extracted prior to that.</p> <p>24 Q. Do you know on what date the data was extracted</p> <p>25 from the database?</p>	<p style="text-align: center;">20</p> <p>1 A. Yes.</p> <p>2 Q. Does this list of fields look familiar to you</p> <p>3 as similar to the list of fields produced to the</p> <p>4 Department of Justice?</p> <p>5 A. Some of the fields look familiar, yes.</p> <p>6 Q. Does it help you recall what fields were</p> <p>7 produced to the Department of Justice?</p> <p>8 A. No.</p> <p>9 Q. Okay. And so you couldn't tell me, even with</p> <p>10 this document in front of you, which of the fields here</p> <p>11 were produced and which were not?</p> <p>12 A. No, I couldn't.</p> <p>13 Q. Okay. Do you know if there were any additional</p> <p>14 fields produced to the Department of Justice that are</p> <p>15 not listed here?</p> <p>16 A. I don't know.</p> <p>17 Q. As of the date of the March 30th production,</p> <p>18 are you aware of how many cases existed in the TEAM</p> <p>19 database?</p> <p>20 A. Could you clarify the term "cases"?</p> <p>21 Q. Sure. Individual records.</p> <p>22 A. I'm not aware of the number of individual</p> <p>23 records.</p> <p>24 Q. Are you aware of any cases or individual</p> <p>25 records were dropped from the database prior to</p>

<p style="text-align: center;">21</p> <p>production for any reason?</p> <p>A. So, could you clarify "prior to production;" what do you mean by that?</p> <p>Q. Were there any cases contained in the TEAM database that were, as part of the process of production, eliminated from the data prior to sending that data to the Attorney General?</p> <p>MR. BRISSENDEN: Objection, vague.</p> <p>Q. (By MR. FREEMAN) You can answer.</p> <p>A. So, for the March data production, my understanding is that included only active voters, not cancelled voters.</p> <p>Q. By cancelled, do you mean voters who are on the suspense list?</p> <p>A. I don't know.</p> <p>Q. What do you mean by cancelled voters?</p> <p>A. So, there are codes within the database.</p> <p>Q. Uh-huh.</p> <p>A. And I'm not familiar with the specifics of each one, but my understanding is that there are active voters and cancelled voters, and the active voters were the ones produced for the March data.</p> <p>Q. Is it possible that you were referring to the voters status code field?</p> <p>A. It is possible.</p>	<p style="text-align: center;">23</p> <p>A. I'm not completely familiar with all details.</p> <p>Q. To the best of your knowledge, what is the live check?</p> <p>A. It is checking the voter against the DPS database and the social security database.</p> <p>Q. And so am I correct that those voters are not fully registered until the live check is complete? And the best of your knowledge.</p> <p>A. I don't know.</p> <p>Q. Okay. That's fine.</p> <p>A. That's a business rule rather than a technical.</p> <p>Q. Okay. So you just know that there are voters or folks in the TEAM database, and they are either active, suspense, or live check?</p> <p>A. I know that there are voters in the database, and they have a status code.</p> <p>Q. Okay. And those status codes are V, S, and L?</p> <p>A. I don't know.</p> <p>Q. Okay. When in the process was the database filtered to only include the active voters for the March 30th production?</p> <p>A. I believe that was part of the coding that my programmer did to pull that data.</p> <p>Q. Okay. Is there such a thing as test entries in the TEAM database?</p>
<p style="text-align: center;">22</p> <p>Q. And are there three potential values for that, active, suspense, and live check?</p> <p>A. Based on my recollection -- I don't know.</p> <p>Q. But your recollection is for the March 30th production, you produced only -- only the active voters?</p> <p>A. That is my recollection, yes.</p> <p>Q. Did anyone instruct you only to produce the active voters?</p> <p>A. I don't know what instructions specifically my programmers were given from the business area.</p> <p>Q. Okay. Do you know what the field entry S, or suspense, means for a given voter in the TEAM database?</p> <p>A. I'm not familiar with the business rules behind the codes in the fields, so, no.</p> <p>Q. Do you know who from the business side of the Secretary of State's Office provided instructions to you or your staff?</p> <p>A. I don't know.</p> <p>Q. Okay. Do you know what the live check entry means in the database?</p> <p>A. I believe the live check status indicates that we received the application, and they are waiting for the live check to complete to determine the outcome of that application.</p> <p>Q. What is the live check?</p>	<p style="text-align: center;">24</p> <p>MR. BRISSENDEN: Objection, vague.</p> <p>A. Could you rephrase the question?</p> <p>Q. (By MR. FREEMAN) Are there entries in the TEAM database that are described by technical personnel as test entries?</p> <p>MR. BRISSENDEN: Same objection.</p> <p>Q. (By MR. FREEMAN) You can answer to the extent that you understand.</p> <p>A. I don't know.</p> <p>Q. Okay. Well, that solves the objection. Prior to production, was any search performed for duplicates in the database?</p> <p>A. As part of the production process?</p> <p>Q. Yes.</p> <p>A. I don't know.</p> <p>Q. So you're not aware of any protocols for matching duplicates that may have been performed prior to production, the March 30th production?</p> <p>A. As part of that production process?</p> <p>Q. Yes.</p> <p>A. No, sir.</p> <p>Q. So let's move to the April 2nd production.</p> <p>A. Okay.</p> <p>Q. Are you aware of what the date of the data extraction was for the April 2nd production?</p>

<p style="text-align: center;">25</p> <p>1 A. No, I'm not.</p> <p>2 Q. Was it the same data that was used for the</p> <p>3 March 30th extraction, but with different data produced?</p> <p>4 A. I don't know.</p> <p>5 Q. Are you aware of what additional fields were</p> <p>6 added or what fields were subtracted between the March</p> <p>7 30th and the April 2nd production?</p> <p>8 A. No, I'm not.</p> <p>9 Q. Are you aware of whether there were more or</p> <p>10 fewer cases in the TEAM database at the time of the</p> <p>11 April 2nd production?</p> <p>12 A. Cases meaning?</p> <p>13 Q. Individuals in the database.</p> <p>14 A. I'm not specifically aware, no.</p> <p>15 Q. Okay.</p> <p>16 A. The TEAM database tends to grow over time.</p> <p>17 Q. Okay. But it also sometimes shrinks, correct?</p> <p>18 A. Yes.</p> <p>19 Q. And for the April 2nd database, am I correct</p> <p>20 full social security numbers were provided -- the April</p> <p>21 2nd production, am I correct that full social security</p> <p>22 numbers were provided to the Attorney General to the</p> <p>23 extent that they existed within the database?</p> <p>24 A. I believe so, yes.</p> <p>25 Q. And did the April 2nd production include both</p>	<p style="text-align: center;">27</p> <p>1 and questions were asked about the TEAM database at the</p> <p>2 deposition of -- I believe it was Ms. Martinez, Gloria</p> <p>3 Martinez, and those questions were posed to her about</p> <p>4 what was in the TEAM database.</p> <p>5 MR. FREEMAN: Mr. Brissenden, the witness</p> <p>6 has indicated that records were removed from the</p> <p>7 database prior to the production to the Attorney</p> <p>8 General. I am asking him what those records were. And</p> <p>9 the idea, the notion that my question is beyond the</p> <p>10 scope is -- borders on absurd. So I would ask you to</p> <p>11 object only when it is warranted.</p> <p>12 I will try to stay within the scope, but I</p> <p>13 can certainly ask the witness what these records were</p> <p>14 that are in the TEAM database, but are not produced to</p> <p>15 the Attorney General. The prior 30(b)(6) deposition</p> <p>16 does not prejudice our ability to ask questions related</p> <p>17 to this topic of this witness, and so I'll ask you to</p> <p>18 withdraw your objection.</p> <p>19 MR. BRISSENDEN: And I'll maintain the</p> <p>20 objection at this time. The question, I believe, as</p> <p>21 posed is not was or was not data or fields of data that</p> <p>22 was included or not included. Your question is</p> <p>23 specifically as to what -- what is meant or not meant by</p> <p>24 particular fields of data. And I'm just stating for the</p> <p>25 record that we have presented a witness on that topic</p>
<p style="text-align: center;">26</p> <p>1 active and suspense voters, or were suspense voters</p> <p>2 again eliminated from the production?</p> <p>3 A. I believe the suspense voters are included, but</p> <p>4 cancelled voters were not.</p> <p>5 Q. Okay. So what is a cancelled voter?</p> <p>6 A. I don't know.</p> <p>7 Q. Do you know what field indicates whether a</p> <p>8 voter is cancelled?</p> <p>9 A. I'm not familiar with the specific fields.</p> <p>10 Q. Do you know what table contains data related to</p> <p>11 cancelled voters?</p> <p>12 A. I'm not familiar with the database structure.</p> <p>13 Q. Do you know when voters become cancelled, what</p> <p>14 event?</p> <p>15 A. I do not.</p> <p>16 Q. Are individuals who are dead and known to the</p> <p>17 state to be dead contained within the TEAM database as</p> <p>18 cancelled voters?</p> <p>19 MR. BRISSENDEN: At this time, I'm going</p> <p>20 to assert an objection as to not being behind the scope</p> <p>21 of Topic Number 11; that is, pertains to the process,</p> <p>22 manner, and method of compiling, cleaning, and filtering</p> <p>23 data from the TEAM database.</p> <p>24 I believe previously, the State had</p> <p>25 designated a witness to -- for a 30(b)(6) deposition,</p>	<p style="text-align: center;">28</p> <p>1 previously to address what is in the fields of data in</p> <p>2 the TEAM database.</p> <p>3 MR. FREEMAN: Are you instructing the</p> <p>4 witness not to answer or --</p> <p>5 MR. BRISSENDEN: I haven't instructed the</p> <p>6 witness not to answer. I am asserting my objection as</p> <p>7 beyond the scope of this topic, Topic 11 of the 30(b)(6)</p> <p>8 deposition that we're here to discuss today.</p> <p>9 MR. FREEMAN: Okay. I'm sorry to ask you</p> <p>10 to read the question back, but if we can scroll back, I</p> <p>11 would appreciate it.</p> <p>12 (Requested portion was read back by the</p> <p>13 court reporter.)</p> <p>14 MR. BRISSENDEN: Same objection.</p> <p>15 Q. (By MR. FREEMAN) You may answer to the extent</p> <p>16 of your knowledge.</p> <p>17 A. I don't know.</p> <p>18 Q. Okay. Are individuals who are eliminated from</p> <p>19 the voter rolls, as part of a purge of duplicate voters</p> <p>20 or voters who have moved, part of that group of voters</p> <p>21 who are cancelled within the database?</p> <p>22 MR. BRISSENDEN: Objection, vague. The</p> <p>23 same objection as before; beyond the scope of the topic.</p> <p>24 Q. (By MR. FREEMAN) You may answer to the extent</p> <p>25 that you understand my question.</p>

<p style="text-align: center;">29</p> <p>1 A. So, I'm not familiar with the election code or</p> <p>2 the business rules that govern what happens to voters.</p> <p>3 I'm familiar with the technical operation of the</p> <p>4 database. I don't know.</p> <p>5 Q. Okay. That's fine.</p> <p>6 Do you know how many cancelled voters were</p> <p>7 eliminated from the database or taken out as part of the</p> <p>8 process of producing the April 2nd data to the Attorney</p> <p>9 General?</p> <p>10 A. I don't know.</p> <p>11 Q. What steps did you go through in order to</p> <p>12 eliminate the nine digit social security number for data</p> <p>13 produced to the defendant intervenors in this matter?</p> <p>14 A. I believe that my staff, as part of their --</p> <p>15 their program, redacted the first five digits of the</p> <p>16 social security number.</p> <p>17 Q. And so was the data produced to some central</p> <p>18 new table and then -- or a new file and then redacted so</p> <p>19 that the Attorney General and the Defendant Intervenors</p> <p>20 received, sort of, the same extraction and then the</p> <p>21 redaction occurred, or were these separate runs from the</p> <p>22 main database?</p> <p>23 A. I don't know.</p> <p>24 MR. BRISSENDEN: Objection, vague and</p> <p>25 compound.</p>	<p style="text-align: center;">31</p> <p>1 that indicates the status of the voter, but I'm not</p> <p>2 familiar with the specific fields.</p> <p>3 Q. And so there could be a different field that</p> <p>4 indicates cancelled?</p> <p>5 A. I don't know.</p> <p>6 Q. And to your understanding of the fields and the</p> <p>7 values that may be contained in those fields, suspense</p> <p>8 is a distinct value from cancelled?</p> <p>9 MR. BRISSENDEN: Objection, vague and</p> <p>10 beyond the scope.</p> <p>11 Q. (BY MR. FREEMAN) You may answer it.</p> <p>12 A. I believe so.</p> <p>13 Q. Okay. Do you know if the cancelled voter field</p> <p>14 is generated by a formula or manually entered or entered</p> <p>15 in some other manner?</p> <p>16 A. I don't know.</p> <p>17 Q. Okay. And so if the cancelled voters were</p> <p>18 produced in the May 4th production, am I correct that</p> <p>19 there were no cases dropped from the TEAM database in</p> <p>20 that production?</p> <p>21 A. I don't know.</p> <p>22 Q. Are you aware of any other basis on which cases</p> <p>23 was dropped from the TEAM database in the prior --</p> <p>24 A. No.</p> <p>25 Q. Pardon me, sir?</p>
<p style="text-align: center;">30</p> <p>1 Q. (BY MR. FREEMAN) Okay. Let's move forward to</p> <p>2 the May 4th production to the Attorney General. Are you</p> <p>3 aware of the date of the data extraction for the May 4th</p> <p>4 production to the Attorney General?</p> <p>5 A. I'm not.</p> <p>6 Q. Okay. And are you aware of what fields were</p> <p>7 contained in that production?</p> <p>8 A. Specifically fields, no, I'm not.</p> <p>9 Q. And are you aware of whether -- are you aware</p> <p>10 of how many cases were contained in the TEAM database at</p> <p>11 of the May 4th production?</p> <p>12 A. No, I'm not.</p> <p>13 Q. And were the cancelled voters again removed</p> <p>14 prior to producing the data to the Attorney General for</p> <p>15 the May 4th production?</p> <p>16 A. My understanding is that there were three sets</p> <p>17 of data that were produced: Voters, cancelled voters,</p> <p>18 and county voting history.</p> <p>19 Q. So for the May 4th data, the cancelled voters</p> <p>20 were produced?</p> <p>21 A. I believe so, yes.</p> <p>22 Q. Okay. Is there a field that indicates a</p> <p>23 positive or negative result for whether a voter is</p> <p>24 cancelled?</p> <p>25 A. I don't know. I believe there's a status field</p>	<p style="text-align: center;">32</p> <p>1 A. No.</p> <p>2 Q. Okay. And was the May 4th production conducted</p> <p>3 by an algorithm from your staff?</p> <p>4 A. Yes.</p> <p>5 Q. Do you know who wrote that program?</p> <p>6 A. I believe it was John Mendoza.</p> <p>7 Q. And was there a production to the Defendant</p> <p>8 Intervenors on May 8th or thereabouts?</p> <p>9 A. Yes, I believe so.</p> <p>10 Q. And was the data draw for the May 8th</p> <p>11 production a separate draw from the May 4th production</p> <p>12 to the Attorney General?</p> <p>13 A. I don't know.</p> <p>14 Q. What were the differences between the data</p> <p>15 produced to the Intervenors on May 8th and the data</p> <p>16 produced to the Attorney General on May 4th?</p> <p>17 A. I believe that it was the same, because I</p> <p>18 believe that the first production to the Attorney</p> <p>19 General in May mistakenly only included the four digit</p> <p>20 SSN instead of the nine digit SSN. We subsequently ran</p> <p>21 a second production to the Attorney General in May that</p> <p>22 included the full SSN.</p> <p>23 Q. So the May 4th data to the Attorney General and</p> <p>24 the May 8th data to the Intervenors was identical, to</p> <p>25 the extent of your knowledge?</p>

<p style="text-align: center;">33</p> <p>1 A. To the extent of my knowledge, yes.</p> <p>2 Q. And the May 9th production to the Attorney</p> <p>3 General, was that a new data draw, vis-a-vis, the May</p> <p>4 4th production?</p> <p>5 A. Yes, I believe so.</p> <p>6 Q. And were cancelled voters, again, included in</p> <p>7 that production?</p> <p>8 A. Yes.</p> <p>9 Q. Do you know, just for the record, what fields</p> <p>10 were contained in that production?</p> <p>11 A. I do not.</p> <p>12 Q. And do you know what tables those fields were</p> <p>13 drawn from?</p> <p>14 A. No.</p> <p>15 Q. But they're all drawn from TEAM, right?</p> <p>16 A. Yes.</p> <p>17 Q. And all these productions are from TEAM,</p> <p>18 correct?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. And the May 9th production, you're not</p> <p>21 aware of any cases having been dropped from the</p> <p>22 production?</p> <p>23 A. No.</p> <p>24 Q. And was the May 9th production the same</p> <p>25 algorithm or program that produced the May 4th</p>	<p style="text-align: center;">35</p> <p>1 they found two: One in the voters' data and one in the</p> <p>2 cancelled voters data.</p> <p>3 Q. Okay.</p> <p>4 A. And that quality control was done only to the</p> <p>5 intervenor data.</p> <p>6 Q. Okay.</p> <p>7 A. To check to make sure that there weren't any</p> <p>8 unredacted SSNS.</p> <p>9 Q. So there were no quality control procedures, to</p> <p>10 the extent of your knowledge, performed on the Attorney</p> <p>11 General's data?</p> <p>12 A. No.</p> <p>13 Q. Okay. And are you aware of who within the</p> <p>14 legal technical support section or division of the</p> <p>15 Office of the Attorney General performed those checks?</p> <p>16 A. I believe it was a gentleman named Oscar.</p> <p>17 Q. Do you know Oscar's last name?</p> <p>18 A. I don't recall Oscar's last name.</p> <p>19 Q. That's all right.</p> <p>20 Are you aware of any changes that were</p> <p>21 made to the database that would explain a decrease in</p> <p>22 the number of cases or voters contained in the database</p> <p>23 between productions?</p> <p>24 A. No.</p> <p>25 Q. Are you aware of whether any purges were</p>
<p style="text-align: center;">34</p> <p>1 production, except that it did not truncate the social</p> <p>2 security numbers?</p> <p>3 A. I believe so.</p> <p>4 Q. Are you aware of any form of quality control</p> <p>5 that was performed on the data to be produced to the</p> <p>6 parties prior to producing it?</p> <p>7 A. Could you clarify quality control, what you</p> <p>8 mean by that?</p> <p>9 Q. Well, this was a term -- I'll represent to you</p> <p>10 that this was a term that was used by counsel for the</p> <p>11 State repeatedly in terms of explaining the timeline for</p> <p>12 production of data.</p> <p>13 A. Uh-huh.</p> <p>14 Q. And so my question is: What types of checks or</p> <p>15 any other procedures that might be identified as quality</p> <p>16 control were performed on this data prior to production?</p> <p>17 A. Okay. I believe that my staff wrote the</p> <p>18 program algorithm that pulls the data from our database,</p> <p>19 provides it to the Office of Attorney General. I</p> <p>20 believe they had two checks on the Intervenor's data;</p> <p>21 one performed by their IT security department using a</p> <p>22 commercial off-the-shelf program to look for unredacted</p> <p>23 SSNs, and I believe they didn't find any. Their second</p> <p>24 check was performed by their legal technical services</p> <p>25 staff, again, to look for unredacted SSNS. I believe</p>	<p style="text-align: center;">36</p> <p>1 performed --</p> <p>2 A. No.</p> <p>3 Q. -- between or --</p> <p>4 A. No.</p> <p>5 Q. Let me finish my question.</p> <p>6 A. Sorry.</p> <p>7 Q. Were you aware of whether any purges were</p> <p>8 performed between productions or prior to any of these</p> <p>9 productions?</p> <p>10 A. No.</p> <p>11 Q. Do you know that they were not or you're not</p> <p>12 aware?</p> <p>13 A. I'm not aware.</p> <p>14 Q. Do staff from your department execute code to</p> <p>15 run a check for a purge, or is that done with</p> <p>16 preexisting code by folks on the business side?</p> <p>17 MR. BRISSENDEN: Objection, vague.</p> <p>18 Q. (By MR. FREEMAN) You can to the extent you</p> <p>19 understand.</p> <p>20 A. Can you rephrase it?</p> <p>21 Q. Sure. Happy to. Always happy to.</p> <p>22 A. Thank you.</p> <p>23 Q. When a purge is performed on the voter</p> <p>24 database, do you have to ask one of your staff to write</p> <p>25 new code to do that, or is there existing code that</p>

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1 someone on the business side can run in order to search  
2 for duplicates; people who have moved, people who've  
3 died, et cetera?

4 A. I believe that there is existing code within  
5 the TEAM system that takes care of that business logic.

6 Q. Okay. And so a purge could be performed  
7 without your knowledge; is that correct?

8 A. Without my knowledge?

9 Q. Yes.

10 A. Yes.

11 Q. Okay. Just to close the loop: Are you aware  
12 of whether eliminating records, bringing down the number  
13 of records is done at the state level or at the county  
14 level?

15 MR. BRISSENDEN: Objection, vague.

16 Q. (By MR. FREEMAN) You can answer if you  
17 understand. If you don't --

18 A. Can you rephrase?

19 Q. Yes. Of course. Always.

20 Are you aware of when a purge is  
21 performed, do you know if folks are doing that in the  
22 Office of the Secretary of State in Austin, or do you  
23 know if that's being done in each county that --

24 MR. BRISSENDEN: Objection, vague.

25 A. I don't.

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1 Q. (By MR. FREEMAN) You don't know. Okay.  
2 Are new records added to the TEAM database  
3 on a daily basis or in batches of some form?

4 A. Both.

5 Q. Okay. Can you explain the circumstances under  
6 which they would be added on a daily basis?

7 A. For the counties that use the online system for  
8 TEAM, the web interface, they are capable of adding new  
9 voters during their normal course of business.

10 Q. Okay. And are some counties not online?

11 A. Some counties are what we call offline  
12 counties.

13 Q. Okay.

14 A. They send us a file that we process nightly.

15 Q. So those are coming in every day once a day?

16 A. Yes.

17 Q. And the other folks are coming in on,  
18 essentially, a live basis?

19 A. Yes.

20 Q. Close to live?

21 A. The offline counties, I am not sure if they  
22 send us files on the weekends or not. I don't know.

23 Q. Nearly daily basis?

24 A. Yes.

25 Q. Okay. Do you know if there are any nonroutine

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1 or irregular changes, either additions or subtractions,  
2 from the TEAM database between March 1st and the  
3 present?

4 MR. BRISSENDEN: Objection, vague and  
5 compound.

6 A. Could you rephrase that, please?

7 Q. (By MR. FREEMAN) Sure. Are you aware of  
8 whether there were any irregular additions made to the  
9 TEAM database since March 1st?

10 MR. BRISSENDEN: Same objection.

11 A. I'm not aware.

12 Q. (By MR. FREEMAN) Are you aware of whether there  
13 were any irregular subtractions or purges from the TEAM  
14 database since March 1st, nonroutine?

15 MR. BRISSENDEN: Objection, vague.

16 A. I'm not aware.

17 MR. FREEMAN: If I can just take a two-  
18 minute break to caucus with my co-counsel, and then  
19 we'll hopefully be done with this witness.

20 (Recess from 10:42 a.m. to 10:48 a.m.)

21 MR. FREEMAN: Back on the record for more  
22 follow-up questions before we wrap up.

23 Q. (By MR. FREEMAN) What other databases do you  
24 manage as the IT director for the Austin SOS?

25 A. We have numerous databases. They range from

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1 Access databases, Microsoft Access -- hundreds of those  
2 maintained by users, but we support them -- up to our  
3 other major database, relative to the TEAM system, is  
4 our business and public filings database. We maintain  
5 in excess of 60 million document images in that  
6 database.

7 Q. And is that related to licensing and  
8 regulation?

9 A. I don't know.

10 Q. Just to clarify, did John Mendoza do the  
11 programing for each of the productions?

12 A. I believe so.

13 Q. And can you think of any other reason, other  
14 than we have discussed already today, why the varying  
15 productions to the Attorney General and to the  
16 Intervenors would have different numbers of records or  
17 voters or cases, however you want to describe it?

18 MR. BRISSENDEN: Objection, vague.

19 A. Would you rephrase?

20 Q. (By MR. FREEMAN) Sure. Can you think of any  
21 reason, other than what we've discussed today, why there  
22 would be different numbers of total records in each of  
23 the productions to the Office of the U.S. Attorney  
24 General?

25 A. I'm not familiar with the business rules

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1 governing how the data is used or maintained, so I'd  
 2 have to say no, I wouldn't know that.  
 3 Q. Okay. So there were no changes in your  
 4 procedures that would excise additional records in any  
 5 way?  
 6 A. Not that I'm aware of.  
 7 Q. During the quality check procedure for the  
 8 Defendant Intervenor, when a nine digit social security  
 9 number was discovered, what procedure was subsequently  
 10 followed?  
 11 A. I believe it was redacted. I believe all nine  
 12 digits were redacted on the two occurrences that it was  
 13 discovered.  
 14 Q. And no other changes were made?  
 15 A. Not my knowledge, no.  
 16 Q. Did any problems come up during the production  
 17 process that you got involved in?  
 18 MR. BRISSENDEN: Objection, vague.  
 19 A. Rephrase, please.  
 20 Q. (By MR. FREEMAN) Sure. While you were  
 21 developing the program needed to produce data to the  
 22 Department of Justice, did your programmers ever come to  
 23 you or to any of their supervisors with queries  
 24 concerning the method of production or the program or  
 25 anything else?

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1 MR. BRISSENDEN: Objection, vague. You  
 2 may answer.  
 3 THE WITNESS: I'm sorry?  
 4 MR. BRISSENDEN: You may answer.  
 5 A. Not that I'm aware of.  
 6 Q. (By MR. FREEMAN) So you didn't provide any  
 7 direct input as to how the production would be  
 8 executed?  
 9 A. No, other than the timeline. I need it now.  
 10 Q. Okay. Was the guidance from the business side  
 11 transmitted orally or in writing?  
 12 A. No.  
 13 Q. So you never saw any written documents  
 14 explaining what was needed?  
 15 A. No. Let me go back just a second on that.  
 16 Q. Sure.  
 17 A. After the conference call we had, where we  
 18 discussed the different fields and trying to answer  
 19 those questions, there was a document that came over  
 20 requesting information, telling us what DOJ and the  
 21 Intervenor wanted to receive. So that would have been  
 22 a document that identified information that we needed to  
 23 pull.  
 24 Q. Okay. So you saw a document from the U.S.  
 25 Department of Justice and the Defendant Intervenor, but

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1 you never saw any documents from within the State of  
 2 Texas, originating from within the State of Texas?  
 3 A. Correct.  
 4 Q. Do you recall when that conference call  
 5 occurred?  
 6 A. I don't recall.  
 7 Q. And that conference call was with attorneys  
 8 from both sides, correct?  
 9 A. Yes.  
 10 Q. Okay. Do you know who, besides John Mendoza,  
 11 received any of the guidance concerning what fields were  
 12 needed?  
 13 A. I don't know.  
 14 Q. And other than Mr. Mendoza and Mr. Guyette, do  
 15 you know anyone else who was involved in the process of  
 16 producing data from the TEAM database to the Department  
 17 of Justice on the technical side?  
 18 A. Right. On my staff, there's another gentleman  
 19 named Jalal, who may have been involved at one point  
 20 when Mr. Mendoza was out sick or indisposed. He's  
 21 another programmer.  
 22 Q. And what is Jalal's last name?  
 23 A. I don't know.  
 24 Q. Would you spell Jalal?  
 25 A. I believe it's J-a-l-a-l. He has a very long,

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1 difficult-to-pronounce last name.  
 2 Q. How many individuals do you supervise, roughly?  
 3 A. I'm responsible for 26 full-time equivalent.  
 4 Q. Okay. Are there any answers that you wish to  
 5 change that you recall differently?  
 6 A. No.  
 7 Q. Anything you would like to add so that we can  
 8 understand your answers more clearly?  
 9 A. No.  
 10 Q. Okay.  
 11 MR. FREEMAN: Well, thank you very much  
 12 for your testimony, sir.  
 13 THE WITNESS: You're welcome.  
 14 (Signature reserved.)  
 15 (Deposition concluded at 10:55 a.m.)  
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IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA	INDEX
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VS. ) NO. 12-CV-128	BLAINE BRUNSON
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ERIC H. HOLDER, JR., )	
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*****	
ORAL DEPOSITION OF BLAINE BRUNSON	
*****	
ANSWERS AND DEPOSITION OF BLAINE BRUNSON, a witness called by the United States taken before Janalyn Reeves, Certified Shorthand Reporter for the State of Texas, on the 30th day of May, 2012, between the hours of 1:00 p.m. and 6:00 p.m., in the offices Dechert, LLP, 300 West 6th Street, Suite 2101, Austin, Texas, pursuant to the agreement of counsel for the respective parties as hereinafter set forth.	
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<p style="text-align: center;">5</p> <p>1 BLAINE BRUNSON, 2 having being first duly sworn, testified as follows: 3 EXAMINATION 4 BY MS. MARANZANO: 5 Q. Good afternoon? 6 A. Hello. 7 Q. My name is Jennifer Maranzano. I'm representing 8 the defendant, Attorney General Eric Holder, in this 9 matter. Can you please state your name for the record? 10 A. Blaine Brunson. 11 Q. And have you ever been known by any other names? 12 A. No. 13 Q. Have you ever been deposed before? 14 A. Yes. 15 Q. What was the name of that case? 16 A. I don't know the name of the case. 17 Q. What was the case matter about? 18 A. It was about a salary dispute at the Parks &amp; 19 Wildlife department. 20 Q. Were you a party to that case? 21 A. No. I was just a witness, I guess. 22 Q. Okay. 23 A. Whatever the term is. 24 Q. I'm going to go over some ground rules today. 25 A. Okay.</p>	<p style="text-align: center;">7</p> <p>1 Q. Do you have any questions? 2 A. No. 3 Q. Are you on any medication today that would impact 4 your ability to testify truthfully and accurately? 5 A. No. 6 Q. Is there any other reason why you cannot testify 7 truthfully and accurately today? 8 A. No. 9 Q. I may use some shorthand today. If I say "the 10 Lieutenant Governor," I'm referring to Lieutenant 11 Governor Dewhurst or anybody who's acting on his behalf. 12 Do you understand that? 13 A. Yes. 14 Q. I may use the terms voter ID and photo ID 15 interchangeably, I'd like you to interpret these terms 16 broadly to include a requirement that a voter present a 17 form of identification whether it has a photo or 18 otherwise in order to cast a regular ballot at the 19 polls. Do you understand that? 20 A. I think so. 21 Q. Okay. Do you have any questions about it? 22 A. No. When we get to it I'll ask if I don't 23 understand the term. 24 Q. Okay. Perfect. When I refer to the term 25 "minority voters," I mean voters who are non-white or</p>
<p style="text-align: center;">6</p> <p>1 Q. You're probably familiar with some of these since 2 you've been deposed before. But you've been placed 3 under oath so it's important to testify truthfully, 4 accurately and completely. The court reporter is 5 preparing a transcript of everything we say today so 6 please make verbal responses and not nods? 7 A. Sure. 8 Q. Great. It's also important that we try not to 9 talk over each other. So if you could wait until I 10 finish my question before you answer and I'll wait until 11 you answer before I ask my next question. If you need a 12 break, please let me and I will do my best to 13 accommodate you. If I have a question open I may ask 14 you to finish answering before we take a break? 15 A. Okay. 16 Q. From time to time your attorney may make an 17 objection. He's making these objections for the record 18 and you can go ahead and answer the question unless he 19 instructs you not to. If he advises you not to answer 20 based on privilege, I would ask that you state on the 21 record whether you're following his advice so we can 22 have a clean record. 23 A. Okay. 24 Q. Do you understand these instructions? 25 A. Yes.</p>	<p style="text-align: center;">8</p> <p>1 non-Anglo. 2 A. Okay. 3 Q. Any questions about anything I have said so far? 4 A. No. 5 Q. Are you represented by counsel today? 6 A. Yes. 7 Q. And who is that? 8 A. Matthew Frederick. 9 Q. And when did this representation begin? 10 A. I guess when I received my notice to be deposed. 11 Q. Other than the case that we've talked about 12 earlier, have you been involved in any other litigation? 13 A. No. 14 Q. And that was the only time that you've been 15 deposed in that matter? 16 A. Yes. Yes. 17 Q. Have you ever been involved in a case where the 18 State of Texas was a plaintiff or a defendant other than 19 this matter? 20 A. No. And depending -- I mean I've always worked 21 at the Capital for quite a while. And there's always 22 been lawsuits that we have to work on or around as far 23 as, you know, if -- if the law needs to change or 24 different things that need to be addressed. But not as 25 a personal party.</p>

<p style="text-align: center;">17</p> <p>1 working for the Lieutenant Governor besides budget 2 director and chief of staff?</p> <p>3 A. No.</p> <p>4 Q. Do you have any experience related to election 5 law?</p> <p>6 A. No.</p> <p>7 Q. Any experience related to election 8 administration?</p> <p>9 A. No.</p> <p>10 Q. What were your responsibilities as the Lieutenant 11 Governor's budget director?</p> <p>12 A. To work on the -- on the State's budget and keep 13 the Senate Finance Committee process moving smoothly in 14 order to have a -- a budget for the State at the end of 15 the legislative session.</p> <p>16 Q. Do you -- did you have any role with the 17 Legislative Budget Board?</p> <p>18 A. As far as while I worked for the Lieutenant 19 Governor?</p> <p>20 Q. Yes.</p> <p>21 A. Just as the liaison between our offices. I mean, 22 I did previously work -- that's where I actually started 23 was at the Legislative Budget Board. So...</p> <p>24 Q. Okay.</p> <p>25 A. And then in the budget director role, a lot of</p>	<p style="text-align: center;">19</p> <p>1 thought you said that -- that the Legislative Budget 2 Board was designed to be sort of an independent body?</p> <p>3 A. As far as when a piece of legislation is filed, 4 you asked if I had a role in the scoring of the bills. 5 I did not, as the Lieutenant Governor's staff. I look 6 at it -- it would be two separate staffs. He is the 7 Co-Chairman of the Board. But his Senate office -- the 8 Lieutenant Governor's office does not actively 9 participate or direct how they do fiscal notes. 10 Their -- they have an independent process that in order 11 for the members to have trust that they're not being 12 told what to do, the two staffs are kept separately.</p> <p>13 And so my role is more as the liaison between -- 14 mainly working on the budget, some on fiscal notes for 15 miscellaneous bills, but primarily on the budget.</p> <p>16 Q. Okay. Did you -- when you say you worked some on 17 fiscal notes, would you review their fiscal notes?</p> <p>18 A. I would review them after they -- as they 19 published them. We don't have a role of looking at them 20 and saying that looks good or does not look good. We 21 review them. As you pass a budget, you have to account 22 for whatever else is out there that costs money. And so 23 I would review them from that standpoint, but not, you 24 know, not an editing role.</p> <p>25 Q. Okay. Are the employees of the Legislative</p>
<p style="text-align: center;">18</p> <p>1 coordinating has to happen between the Legislative 2 Budget Board and the Legislature. So there's not a 3 formal title, but it's just part of the job.</p> <p>4 Q. Part of your job as budget director for 5 Lieutenant Governor?</p> <p>6 A. Yes, ma'am.</p> <p>7 Q. Okay. Did you -- is part of that working with 8 the Legislative Budget Board to score legislation?</p> <p>9 A. Score?</p> <p>10 Q. I'm sorry. To provide a fiscal note for the -- 11 for the legislation -- for legislation?</p> <p>12 A. Did I do that?</p> <p>13 Q. Uh-huh.</p> <p>14 A. No. The -- actually the Legislative Budget Board 15 does the costing out or scoring on their own. I mean, 16 it's -- it's intended to be kind of an independent 17 process. So that, you know, everyone can look at them 18 and say this is an objective fiscal note.</p> <p>19 Q. Okay. Does the Lieutenant Governor have an 20 advisory role to the Legislative Budget Board?</p> <p>21 A. He's the Co-Chairman of the Board.</p> <p>22 Q. And how do you in sure the board stays 23 independent?</p> <p>24 A. Well, the -- as far as on the cost estimates?</p> <p>25 Q. Right. I was -- I was referring to what I</p>	<p style="text-align: center;">20</p> <p>1 Budget Board employees under Lieutenant Governor 2 Dewhurst?</p> <p>3 A. He's the Co-Chair of the Board.</p> <p>4 Q. Do they report to him?</p> <p>5 A. As for as organizational structure, yes. But 6 there -- there is a staff executive director who is 7 the -- who the board delegates the duty of running the 8 office to. So at the end of the day, he's at the top of 9 the organizational chart, but they don't have a 10 direct -- it's not a daily report to the Lieutenant 11 Governor. And the Speaker is also a Co-Chair. So they 12 balance, not only House and Senate, but intended balance 13 between Republican Democrat. It's -- it's intended to 14 be an independent body.</p> <p>15 Q. As -- as the chief of staff to the Lieutenant 16 Governor, do you oversee those employees?</p> <p>17 A. No.</p> <p>18 Q. What -- what are your current responsibilities 19 for the Lieutenant Governor?</p> <p>20 A. Duties as assigned. It's just making sure that 21 the trains run smoothly. Anything that's, you know, 22 current issue that's a problem that needs to be dealt 23 with or, you know, personnel type issues.</p> <p>24 Q. How many staff does Lieutenant Governor have?</p> <p>25 A. It's probably 30, 35.</p>

<p style="text-align: center;">21</p> <p>1 Q. Are there some staff who -- is there a breakdown</p> <p>2 of staff between executive functions and legislative</p> <p>3 functions?</p> <p>4 A. No. Because he's part of both branches.</p> <p>5 Q. Uh-huh.</p> <p>6 A. No, they're all one -- one group.</p> <p>7 Q. How many -- how many people in your office have</p> <p>8 legislative responsibilities?</p> <p>9 A. Depending on how you define it, pretty much</p> <p>10 everyone.</p> <p>11 Q. Does everyone report to you?</p> <p>12 A. I guess, most of the time.</p> <p>13 Q. How many people in your office have legislative</p> <p>14 responsibilities dealing with election related bills?</p> <p>15 A. Probably two or three at the max.</p> <p>16 Q. And who are those people?</p> <p>17 A. During the -- are you talking about right now or</p> <p>18 during the session?</p> <p>19 Q. About right now.</p> <p>20 A. Right now we've got a vacancy and the general</p> <p>21 counsel would handle it or Julia Rathgeber of the Deputy</p> <p>22 Chief of Staff.</p> <p>23 Q. And the general counsel, is that Frank Battle?</p> <p>24 A. Yes.</p> <p>25 Q. While you've served as chief of staff, can you</p>	<p style="text-align: center;">23</p> <p>1 guess, '09 there was a provision put in the budget to</p> <p>2 pay for, I believe it was for voter education. But it</p> <p>3 was -- my role was more -- they said, "We need to put</p> <p>4 this in the budget." And I said, "Okay." And -- but it</p> <p>5 wasn't -- I didn't get into the -- I didn't know the</p> <p>6 details of voter identification. Just the fact that</p> <p>7 there was some amount of money, I believe it was \$3</p> <p>8 million -- \$2 or \$3 million that needed to be</p> <p>9 appropriated to the Secretary of State for that. But</p> <p>10 beyond that, not much on the substance of the -- of</p> <p>11 voter ID.</p> <p>12 Q. Okay. Who do you report to?</p> <p>13 A. The Lieutenant Governor.</p> <p>14 Q. What -- what executive functions does Lieutenant</p> <p>15 Governor have?</p> <p>16 A. Say that again.</p> <p>17 Q. What -- what are the Lieutenant Governor's</p> <p>18 executive functions?</p> <p>19 A. The primary function is when the governor is out</p> <p>20 of state he serves as the acting governor. Beyond that</p> <p>21 there's not a lot of executive function.</p> <p>22 Q. Does the Lieutenant Governor maintain separate</p> <p>23 offices for an executive office and a legislative</p> <p>24 office?</p> <p>25 A. No. It's -- it's one single office.</p>
<p style="text-align: center;">22</p> <p>1 tell me every person who worked on the voter</p> <p>2 identification issue?</p> <p>3 A. Yeah. I mean, I can try. As far as from his</p> <p>4 office?</p> <p>5 Q. Yes.</p> <p>6 A. I would say Bryan Hebert, Frank Battle and Julia</p> <p>7 Rathgeber.</p> <p>8 Q. Anybody else?</p> <p>9 A. No -- no major rolls beyond that. I mean --</p> <p>10 Q. Did you also work on the issue?</p> <p>11 A. From a high -- from a high level. I mean, not</p> <p>12 the details of it. But as far as, you know, the</p> <p>13 planning process, yes.</p> <p>14 Q. Uh-huh. Did the Lieutenant Governor also work on</p> <p>15 the issue?</p> <p>16 A. Yes.</p> <p>17 Q. Does -- does Julia Rathgeber -- or do Julia</p> <p>18 Rathgeber, Frank Battle and Bryan Hebert -- did they --</p> <p>19 did Bryan Hebert all report to you while they were</p> <p>20 working on this issue?</p> <p>21 A. Yes.</p> <p>22 Q. Were you at all involved in the voter</p> <p>23 identification issue while you were serving as budget</p> <p>24 director?</p> <p>25 A. In a -- on a -- in an ancillary way. In, I</p>	<p style="text-align: center;">24</p> <p>1 Q. What are the Lieutenant Governor's legislative</p> <p>2 duties?</p> <p>3 A. To preside over the Senate and all that entails</p> <p>4 as far as appointing committees and referring bills to</p> <p>5 those committees. And he has a signing duty on each</p> <p>6 piece of legislation as it passes. And as far as</p> <p>7 legislative -- I guess it would still be legislative,</p> <p>8 but like the Legislative Budget Board, those roles are</p> <p>9 part of his, I guess, ex-officio duties from being</p> <p>10 Lieutenant Governor, Legislative Council, Legislative</p> <p>11 Budget Board, any of the legislative agencies.</p> <p>12 Q. Uh-huh. Okay.</p> <p>13 MS. MARANZANO: Can we have this marked.</p> <p>14 (Exhibit No. 131 was marked.)</p> <p>15 BY MS. MARANZANO:</p> <p>16 Q. Mr. Brunson, I'm showing you what we're marking</p> <p>17 as Deposition Exhibit 131. If you can take a look at</p> <p>18 this quickly. I'm going to represent to you this is</p> <p>19 actually an excerpt from the 2011 Senate rules.</p> <p>20 A. Okay.</p> <p>21 Q. Because the entire thing is somewhat voluminous.</p> <p>22 If you can take a look at rule 13.01 for me which</p> <p>23 describes the Lieutenant Governor's role in regards to</p> <p>24 the Committee-of-the-Whole.</p> <p>25 A. Okay.</p>

<p style="text-align: center;">25</p> <p>1 Q. Do you see that?</p> <p>2 A. Yes.</p> <p>3 Q. Does Lieutenant Governor have a right to vote on</p> <p>4 bills being considered by the Senate?</p> <p>5 A. If it's in the Committee-of-the-Whole or in the</p> <p>6 Senate in general?</p> <p>7 Q. Well, let's start with the Senate in general?</p> <p>8 A. He can vote to break a tie. And then in the</p> <p>9 Committee-of-the-Whole I believe he has a vote -- a</p> <p>10 right to vote just like any of the other members.</p> <p>11 Q. So in the Senate as a whole, is the only time</p> <p>12 he's permitted to vote to break a tie?</p> <p>13 A. That's my understanding.</p> <p>14 Q. And in the Committee-of-the-Whole, he's allowed</p> <p>15 to, pursuant to that rule, he has a right to debate and</p> <p>16 vote on all questions?</p> <p>17 A. Yes, under 13.03.</p> <p>18 Q. Do you play any role in advising Lieutenant</p> <p>19 Governor when to be involved in the debate and when to</p> <p>20 vote on questions in the Committee-of-the-Whole?</p> <p>21 MR. FREDERICK: Objection; vague. You can</p> <p>22 answer.</p> <p>23 A. Can you --</p> <p>24 Q. Pursuant to rule 13.01, it says in the</p> <p>25 Committee-of-the-Whole Lieutenant Governor has a right</p>	<p style="text-align: center;">27</p> <p>1 Q. Did he ask for your advice on that vote?</p> <p>2 A. I don't recall.</p> <p>3 Q. In any given legislative session, about how many</p> <p>4 times does the Senate go into the</p> <p>5 Committee-of-the-Whole?</p> <p>6 A. Generically speaking, I would say maybe once a</p> <p>7 session. It depends on the issues that are being looked</p> <p>8 at.</p> <p>9 Q. What sorts of issues would prompt it going to the</p> <p>10 Committee-of-the-Whole?</p> <p>11 A. The bill we're talking -- the Senate bill 14 did.</p> <p>12 And I -- I believe in the past the school finance bills.</p> <p>13 Any -- any legislation that there was a majority of the</p> <p>14 members that wanted to have the testimony in front of</p> <p>15 everyone so everyone could hear the same thing at the</p> <p>16 same time.</p> <p>17 Q. And is it the Lieutenant Governor's decision to</p> <p>18 resolve to the Committee-of-the-Whole?</p> <p>19 A. I believe so.</p> <p>20 Q. Well, let's -- let's look at rule 7.06. Do you</p> <p>21 see that?</p> <p>22 A. Yeah.</p> <p>23 Q. And Section A says, "The president shall refer</p> <p>24 each bill to the proper committee or standing</p> <p>25 sub-committee and shall cause such referral to be</p>
<p style="text-align: center;">26</p> <p>1 to debate and vote on all questions, correct?</p> <p>2 A. No. 13 -- 13 -- yeah, 03.</p> <p>3 Q. 13.03. I apologize.</p> <p>4 A. No. That's fine.</p> <p>5 Q. So -- so my question is about your role in</p> <p>6 advising Lieutenant Governor, if you have a role in</p> <p>7 advising Lieutenant Governor when to exercise this right</p> <p>8 of debating or voting the Committee-of-the-Whole?</p> <p>9 A. It would be on a case-by-case basis.</p> <p>10 Q. Well, how do you determine when to play that</p> <p>11 role?</p> <p>12 A. Well, if we were in the Committee-of-the-Whole</p> <p>13 and he asked if he should debate or vote I would advise</p> <p>14 him, yes.</p> <p>15 Q. How often does he ask you for advice on that?</p> <p>16 A. Not very often. I mean...</p> <p>17 Q. How often does he participate and vote during the</p> <p>18 Committee-of-the-Whole?</p> <p>19 A. He participates -- if there is a</p> <p>20 Committee-of-the-Whole he'll participate in each one of</p> <p>21 them and vote. I believe -- and I'm not 100 percent</p> <p>22 sure, but I believe like in this case -- I believe he</p> <p>23 voted on the voter ID bill.</p> <p>24 Q. And are you referring to SB 14?</p> <p>25 A. Yes.</p>	<p style="text-align: center;">28</p> <p>1 announced when the bill is first read"?</p> <p>2 A. Yes.</p> <p>3 Q. So would that include -- and "the president," is</p> <p>4 that referring to Lieutenant Governor?</p> <p>5 A. Yes.</p> <p>6 Q. And would that include, when it talks about</p> <p>7 referring a bill to the proper Committee, the</p> <p>8 Committee-of-the-Whole?</p> <p>9 A. I believe so.</p> <p>10 Q. And so the Lieutenant Governor -- just to ask you</p> <p>11 the question again, does the Lieutenant Governor make</p> <p>12 decision to refer bills to the Committee-of-the-Whole?</p> <p>13 A. Yes.</p> <p>14 Q. And do you play a role in advising him on that</p> <p>15 decision?</p> <p>16 A. Yes.</p> <p>17 Q. How do you decide whether to refer a bill to the</p> <p>18 Committee-of-the-Whole?</p> <p>19 MR. FREDERICK: Object on the basis of</p> <p>20 legislative privilege. I would instruct you not to</p> <p>21 answer that question on that ground.</p> <p>22 BY MS. MARANZANO:</p> <p>23 Q. Are you following your counsel's instruction?</p> <p>24 A. Yes.</p> <p>25 Q. Do chairs of committees make request to have</p>

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1 bills heard in their committee?

2 A. Yes.

3 Q. Frequently?

4 A. Yes.

5 Q. Is the assignment of a bill to a committee

6 connected at all to who is the chair?

7 A. No. It's more -- it's more connected to the

8 subject matter of the committee.

9 Q. It's more connected to the subject matter of the  
10 committee. Is there anything else that would inform  
11 your decision of where to refer a bill?

12 MR. FREDERICK: Let me just object on  
13 legislative privilege to the extent that this question  
14 asks you to reveal your own thought process or mental  
15 impressions about a specific bill or Lieutenant  
16 Governor's thought process or mental impressions or any  
17 communications with another legislator or staff, I would  
18 instruct you not to answer. However, to the extent you  
19 can answer without revealing that kind of information,  
20 you may answer the question.

21 A. Can you repeat the question?

22 Q. BY MS. MARANZANO: Can you read it back?

23 (Requested question was read.)

24 A. I -- I don't believe I can answer without  
25 revealing legislative privilege.

30

1 Q. Okay. And just to be clear, I'm asking you right  
2 now just about sort of a general procedural matter, not  
3 about any particular bill. Does that change your answer  
4 at all or change your ability to answer?

5 A. I don't think so.

6 Q. Okay. Can you also take a look at rule 11.01 for  
7 me? Actually, before we do that, can I just ask you --  
8 let's go back to the assignment of bills. Does the  
9 Lieutenant Governor personally make that decision of  
10 where to refer a bill?

11 A. Yes.

12 Q. And does Lieutenant Governor also personally make  
13 the decision of when to resolve into the  
14 Committee-of-the-Whole?

15 A. Yes.

16 Q. Okay. Can you look at 11.01? Does Lieutenant  
17 Governor also make Committee appointments pursuant to  
18 rule 11.01?

19 A. Yes.

20 Q. And do you have a role in this duty of Lieutenant  
21 Governor's?

22 A. Yes.

23 Q. What's your role?

24 A. My role is to help him decide which members best  
25 fit which committee.

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1 Q. And how do you do that?

2 MR. FREDERICK: I'll object -- I'll object  
3 on the grounds of privilege and just caution the witness  
4 that to the extent this is asking generally about what  
5 factors go into a decision, that that's -- you may  
6 answer. I would caution you not to reveal any specific  
7 thought process or decision about a particular bill.

8 A. The -- it generally matches different member's  
9 experience, subject matter, expertise and member's  
10 request different committee assignments.

11 Q. When are committee assignments made in a  
12 legislative session?

13 A. It depends. Sometimes it -- it depends on how  
14 much turn over there has been. If there's new members,  
15 they'll do some reassignments. And I believe for -- for  
16 example, last session I believe we did the committee  
17 assignments before session so that the committees would  
18 be in place for the session.

19 Q. Do you ever or does it ever happen that bills are  
20 considered before committee assignments are made?

21 A. No, because they wouldn't have anywhere to go.

22 Q. Even if they went to the Committee-of-the-Whole?

23 A. Well, you would have to form the

24 Committee-of-the-Whole to do it.

25 Q. So you have never seen that happen?

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1 A. Not to my knowledge.

2 Q. In terms of the final decision about committee  
3 appointments who makes that decision?

4 A. The Lieutenant Governor.

5 Q. Can you look at rule 12.01 for me? Does  
6 Lieutenant Governor also play a role in appointing  
7 conferees for conference committees?

8 A. Yes.

9 Q. And -- I'm sorry. His role is to make the  
10 appointment, correct?

11 A. Yes.

12 Q. And do you play a role in that?

13 A. Yes.

14 Q. What's your role?

15 A. My role is -- is the members will request who  
16 they would like to have on the conference committee.  
17 And again, in this specific piece, my role is more  
18 50,000 feet. I don't deal with every conference  
19 committee. But the members will request the people that  
20 they would like to have on it, turn it into the  
21 Lieutenant Governor. We just make sure that he has the  
22 request and then makes the appointment.

23 Q. What criteria does he use to make that  
24 appointment?

25 A. Generally he takes the recommendation of the

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1 pertinent -- I guess the bill sponsor or the chairman  
 2 who sends the -- the request in.  
 3 Q. And I believe you said that you don't get  
 4 involved in every conference committee?  
 5 A. Right.  
 6 Q. Appointment?  
 7 A. Right. I would -- I guess technically they would  
 8 come through my -- across my desk. But because there's  
 9 so many of them I don't look at every one.  
 10 Q. Are there some that you have been involved in?  
 11 A. Yes.  
 12 Q. Which ones?  
 13 A. Probably too many to recall. But if there's  
 14 any -- like on the budget, if there's -- it's always a  
 15 very coveted position. So you'll have, you know, ten  
 16 members ask for only five spots. So if there's issues  
 17 like that, that's when I would work.  
 18 Q. Were you involved in appointing conferees for SB  
 19 14?  
 20 A. I would have had to have been. I don't recall  
 21 the specifics of who it was and how it came to pass, but  
 22 I would say that, yes.  
 23 Q. Can you tell me what you meant when you said it's  
 24 a "coveted spot" on the Committee?  
 25 A. People want it.

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1 Q. Why is that?  
 2 A. Because it's a good role to have if you're  
 3 working on the budget to be one of the conferees.  
 4 Q. And beyond the budget is it also coveted?  
 5 MR. FREDERICK: Objection; vague. You can  
 6 answer.  
 7 A. It depends on the bill.  
 8 Q. BY MS. MARANZANO: Do the conferees have a  
 9 significant role in shaping the final -- the final  
 10 legislation?  
 11 A. Usually, yes.  
 12 Q. Do you recall how many people -- you said you  
 13 were involved in the appointment of conferees for SB 14?  
 14 A. Yes.  
 15 Q. How many members asked to be on that conference  
 16 committee?  
 17 A. I don't remember.  
 18 Q. Is your role -- when you're involved in this  
 19 decision of who's going to be on the conference  
 20 committee, is your role, in part, to make a  
 21 recommendation to the Lieutenant Governor?  
 22 A. If he asks, yes.  
 23 Q. Does he usually ask?  
 24 A. Yes.  
 25 Q. And then does he make the final decision?

35

1 A. Yes.  
 2 Q. Can you look at rule 1.01 and also 5.15? In  
 3 terms of rule 5.15, can you tell me about -- does  
 4 Lieutenant Governor also rule on questions of order?  
 5 A. Yes.  
 6 Q. How does Lieutenant Governor do that, what's the  
 7 process he use -- uses to make those rules?  
 8 A. While the Senate is in session?  
 9 Q. Yes. While the Senate is in session?  
 10 A. He does it from the podium, from the chair. And  
 11 if there's a -- I guess if someone is out of order,  
 12 he'll just gavel the Senate needs to be in order.  
 13 Q. Are there also questions of order that he rules  
 14 on?  
 15 A. I'm not sure I understand.  
 16 Q. Because rule 5.15 refers to every question of  
 17 order. Is it -- is that connected to a point of order  
 18 or is that a different issue?  
 19 A. I believe it's -- I believe it's point of order.  
 20 I believe it is point of orders.  
 21 Q. Do you know how the Lieutenant Governor  
 22 determines rulings on points of order?  
 23 A. He's advised by the parliamentarian.  
 24 Q. Do you play any role in that -- in those rulings  
 25 that he makes?

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1 A. No.  
 2 Q. Is anybody on the Lieutenant Governor staff  
 3 available to him as a resource when those questions of  
 4 order arise?  
 5 A. The general counsel -- it's primarily the  
 6 parliamentarian. It's almost exclusively the  
 7 parliamentarian.  
 8 Q. Is the parliamentarian an employee of the  
 9 Lieutenant Governor?  
 10 A. I think -- I think technically, yes. But the  
 11 parliamentarian works for both the Lieutenant  
 12 Governor -- it's a weird balance between the Senate body  
 13 and the Lieutenant Governor, but I could be wrong on  
 14 this. But I believe the -- I believe that the  
 15 parliamentarian is technically an employee of the  
 16 Lieutenant Governor.  
 17 Q. Who is the current parliamentarian?  
 18 A. Karina Davis.  
 19 Q. And was she there during the consideration of SB  
 20 14 as well?  
 21 A. Yes.  
 22 Q. In rule 5.15, do you see it makes reference to  
 23 rules being appealed?  
 24 A. Yes.  
 25 Q. How often does that happen?

37

1 A. Not -- not very often.  
 2 Q. In any given legislative session would you say --  
 3 what would be an approximation for how many times that  
 4 might happen?  
 5 A. I've probably seen it once or twice in four or  
 6 five sessions?  
 7 Q. Can you look now at rule 1.01 where it talks  
 8 about -- let me get there. Does that refer to the  
 9 Lieutenant Governor's duty or ability to appoint a  
 10 member to perform duties of the chair?  
 11 A. Yes.  
 12 Q. So he has that duty as well?  
 13 A. Yes.  
 14 Q. How does Lieutenant Governor decide who to  
 15 appoint as the chair?  
 16 A. Are you -- and you mean a temporary chair?  
 17 Q. That's right. That's -- that's his duties -- or  
 18 his right, correct, under rule 1.01?  
 19 A. Right.  
 20 Q. I'm looking at a sentence that's a couple in in  
 21 that rule. It says the president shall have the right  
 22 to name a member to perform the duties of the chair.  
 23 A. Right.  
 24 Q. Are you familiar with that rule for the  
 25 Lieutenant Governor?

38

1 A. Not -- not very. If it's referring to just a  
 2 temporary appointment, during the course of a long day  
 3 he'll periodically have a member of the Senate come up  
 4 and preside over the Senate.  
 5 Q. I see. So if he -- if he's presiding over the  
 6 Senate and he wants to take a break, he might have  
 7 somebody sit in as chair?  
 8 A. Yes.  
 9 Q. Does he ever appoint somebody to be chair for an  
 10 entire debate on an issue?  
 11 MR. FREDERICK: Objection; vague. But you  
 12 can answer.  
 13 A. Do you -- do you mean while the Senate is in  
 14 session?  
 15 Q. BY MS. MARANZANO: I'm referring to -- I'm  
 16 referring to rule 1.01 which I believe is referring to  
 17 while the Senate is in session, not the  
 18 Committee-of-the-Whole; is that correct?  
 19 A. Yes. I believe so.  
 20 Q. So for -- for rule 1.01 which allows him to name  
 21 members to temporarily be the chair, would he ever  
 22 appoint somebody to be the chair for consideration of a  
 23 piece of legislation?  
 24 A. He could. He could.  
 25 Q. Have you seen that happen?

39

1 A. Well, while members are presiding entire bills  
 2 pass. So, yes. If a member is up there and presides  
 3 over three or four bills, they would preside over the  
 4 entire debate or process of each one of those bills.  
 5 Q. While SB 14 was being considered by the Senate,  
 6 not by the Committee-of-the-Whole, but by the Senate,  
 7 did Lieutenant Governor preside over that?  
 8 A. I don't recall. I would -- I believe yes, but I  
 9 don't recall.  
 10 Q. Can you turn to rule 7.23 which is about signing  
 11 of bills. I believe you actually mentioned this  
 12 earlier. Is that -- is that a discretionary rule for  
 13 the Lieutenant Governor to sign -- the rule says, "the  
 14 president of the Senate or presiding officer shall in  
 15 the presence of the Senate sign all bills and joint  
 16 resolutions passed by the Legislature." Is that -- is  
 17 that a discretionary role of his or is that mandatory  
 18 role?  
 19 A. I'm looking at -- I'm not a rules expert, but  
 20 looking at the bottom of rule 7.23, I think that  
 21 constitutional reference, I believe the constitution  
 22 requires that each bill be publicly read and the fact of  
 23 signing entered into the journal.  
 24 Q. Is it somewhat of a ceremonial duty?  
 25 A. I think it's constitutional.

40

1 Q. Okay. Do you -- do you work on -- well, strike  
 2 that. Does the Lieutenant Governor create a legislative  
 3 agenda at the beginning of a legislative session?  
 4 A. Yes.  
 5 Q. Do you work on that?  
 6 A. As far as compiling the agenda?  
 7 Q. Well, in any way.  
 8 A. Yes.  
 9 Q. And what's your role?  
 10 A. The role of compiling an agenda would be working  
 11 with the Lieutenant Governor to determine what issues  
 12 need to be addressed during the session and making sure  
 13 that those issues -- that, you know, the process is  
 14 moving on each one of the issues on the list. Like  
 15 every session the budget has to pass, so it's obviously,  
 16 you know, for any Lieutenant Governor would be a  
 17 priority agenda item and then any other items that would  
 18 need to be addressed, yes.  
 19 Q. How many priorities does Lieutenant Governor  
 20 usually have in any given legislative session?  
 21 A. Well, every session is different.  
 22 Q. How many did he have in the 2011 legislative  
 23 session?  
 24 A. I don't -- I don't know. I mean --  
 25 Q. Did you work on a agenda -- a legislative agenda

<p style="text-align: center;">41</p> <p>1 for 2011?</p> <p>2 A. There was definitely a discussion of what items</p> <p>3 needed to be passed.</p> <p>4 Q. Was a voter ID bill on his legislative</p> <p>5 priority -- among his legislative priorities?</p> <p>6 A. Yes.</p> <p>7 Q. Did you work on a legislative agenda for the 2009</p> <p>8 legislative session?</p> <p>9 A. No.</p> <p>10 Q. Are you aware if a voter ID bill was on his list</p> <p>11 of legislative priorities for that legislative session?</p> <p>12 A. I'm not aware.</p> <p>13 Q. Do you assist with developing legislation?</p> <p>14 A. No, not really.</p> <p>15 Q. Not at all?</p> <p>16 A. Depends on what you mean by developing. I don't</p> <p>17 write legislation. I think the more specific staff</p> <p>18 would work on developing legislation.</p> <p>19 Q. Do you have any role in insuring that the</p> <p>20 legislation that's created is -- fits with the</p> <p>21 Lieutenant Governor's goal?</p> <p>22 A. Yes.</p> <p>23 Q. So do you oversee this process of a piece of</p> <p>24 legislation getting drafted?</p> <p>25 A. No.</p>	<p style="text-align: center;">43</p> <p>1 A. Yeah. I would say not at all.</p> <p>2 Q. And then do the policy analyst -- the policy</p> <p>3 analyst would then meet with him to talk about the</p> <p>4 drafts of the legislation that they are working on. Is</p> <p>5 that what you testified to?</p> <p>6 A. Yes.</p> <p>7 Q. Okay. Do you play any role in deciding which</p> <p>8 members of the Legislature will carry a bill?</p> <p>9 A. No.</p> <p>10 Q. If the Lieutenant Governor -- if the Lieutenant</p> <p>11 Governor's policy analyst are working on a piece of</p> <p>12 legislation, is it correct that the Lieutenant Governor</p> <p>13 himself cannot introduce that legislation?</p> <p>14 A. That's correct.</p> <p>15 Q. So how do you -- how does the office ensure that</p> <p>16 that legislation will actually get introduced?</p> <p>17 A. Normally a member brings the legislation forward</p> <p>18 and -- it would -- you kind of move the process a little</p> <p>19 bit backwards. Because our policy analyst would</p> <p>20 normally not go out and do all of the drafting or</p> <p>21 working on a bill without a legislator involved just</p> <p>22 because the point that you mentioned, Lieutenant</p> <p>23 Governor can't introduce legislation. So normally a</p> <p>24 member would have a legislative idea and then they would</p> <p>25 request a bill to be filed and then -- so our policy</p>
<p style="text-align: center;">42</p> <p>1 Q. No. How do you ensure that the legislation</p> <p>2 that's created meets the Lieutenant Governor's goals?</p> <p>3 A. Usually the staff that works on it will brief him</p> <p>4 on it and ask him if it meets his expectations.</p> <p>5 Q. And are you usually in on those meetings?</p> <p>6 A. If I can be, yes.</p> <p>7 Q. Do you interact with the Texas Legislative</p> <p>8 Council at all?</p> <p>9 A. Some, but not a whole lot. It's more of -- the</p> <p>10 relationship is more directly between the analyst --</p> <p>11 policy analyst and the drafter.</p> <p>12 Q. And are the policy analyst the people who are</p> <p>13 working on the -- the policy analyst works for the</p> <p>14 Lieutenant Governor, correct?</p> <p>15 A. Yes.</p> <p>16 Q. And the policy analysts are the people in the</p> <p>17 Lieutenant Governor's office who would be involved in</p> <p>18 the drafting of a bill?</p> <p>19 A. They would do the instructions. The attorneys at</p> <p>20 the legislative counsel would do the actual drafting.</p> <p>21 Q. And how involved is the Lieutenant Governor</p> <p>22 himself in that process?</p> <p>23 A. Not very much.</p> <p>24 Q. Not very much in the process of the drafting of</p> <p>25 the bill?</p>	<p style="text-align: center;">44</p> <p>1 analyst simply tract an follow members bills that have</p> <p>2 been filed. So our staff generally does not -- it's</p> <p>3 more the members and their staff's role to do the</p> <p>4 requesting of drafts and the changes.</p> <p>5 Q. Does the Governor ever request legislation to be</p> <p>6 introduced?</p> <p>7 A. The Governor -- the main way the Governor would</p> <p>8 request it is through emergency call which he does at</p> <p>9 the beginning of each session -- I guess he does it</p> <p>10 every session. He has the right to do it every session.</p> <p>11 Q. How often do you communicate with the Lieutenant</p> <p>12 Governor?</p> <p>13 A. During a session or outside of session?</p> <p>14 Q. Let's start with during a session.</p> <p>15 A. Very -- very routinely. I mean, our offices are</p> <p>16 pretty close to each other. And then when we're out of</p> <p>17 session less frequently. If he's travelling we talk on</p> <p>18 the phone. But -- but during session it's, you know,</p> <p>19 it's like any job. Your co-worker is right next door.</p> <p>20 It just happens to be the Lieutenant Governor.</p> <p>21 Q. So during a session you would interact with him</p> <p>22 daily?</p> <p>23 A. Yes.</p> <p>24 Q. And not during legislative session how often do</p> <p>25 you interact with him?</p>

<p style="text-align: center;">49</p> <p>1 (Ms. Maria H. Rios joins deposition.)</p> <p>2 Q. (By Ms. Maranzano) Prior to submitting a piece</p> <p>3 of legislation for preclearance, are there any steps</p> <p>4 that are taken by the Legislature to increase the chance</p> <p>5 that that law will be precleared by the Department of</p> <p>6 Justice?</p> <p>7 A. I don't know the answer to that.</p> <p>8 Q. Who would know the answer to that?</p> <p>9 A. One of our attorneys.</p> <p>10 Q. Do you know if the Lieutenant Governor takes any</p> <p>11 steps to ensure a piece of legislative -- to increase</p> <p>12 the chances that a piece of legislation will be</p> <p>13 precleared?</p> <p>14 A. I don't know the answer to that, either.</p> <p>15 Q. And who would know that answer?</p> <p>16 A. Our attorneys.</p> <p>17 Q. Does the Lieutenant Governor receive any legal</p> <p>18 advice about an election related change and whether or</p> <p>19 not it meets the requirements of Section 5?</p> <p>20 A. I would -- I believe he would receive legal</p> <p>21 advice on any bill, whether Section 5 or any other State</p> <p>22 or federal law, he would obviously want to know if there</p> <p>23 was some conflict. So the answer is, I guess, yes.</p> <p>24 Q. He would receive legal advice from your general</p> <p>25 counsel or someone else?</p>	<p style="text-align: center;">51</p> <p>1 discussed at all?</p> <p>2 A. I don't believe so.</p> <p>3 Q. Does Mr. Dewhurst have any affiliation with ALEC?</p> <p>4 A. No.</p> <p>5 Q. Have you ever received any documents from ALEC</p> <p>6 related to voter ID?</p> <p>7 A. Not that I'm aware of.</p> <p>8 Q. Are you familiar with a group called the National</p> <p>9 Council of State Legislatures -- I'm sorry. The</p> <p>10 National Conference of State Legislators?</p> <p>11 A. Yes.</p> <p>12 Q. Have you ever been to any of their meetings?</p> <p>13 A. Yes.</p> <p>14 Q. Was voter ID discussed at any of the meetings</p> <p>15 that you attended?</p> <p>16 A. Not that I recall.</p> <p>17 Q. Have you ever received any materials from them</p> <p>18 about voter ID?</p> <p>19 A. Not that I recall.</p> <p>20 Q. And in relation to ALEC, have you ever received</p> <p>21 any materials from ALEC related to voter ID?</p> <p>22 A. No.</p> <p>23 Q. Has Mr. Dewhurst ever been to any meetings held</p> <p>24 by the National Conference of State Legislators?</p> <p>25 A. He helped host the meeting last summer in</p>
<p style="text-align: center;">50</p> <p>1 A. Either general counsel or if there's a staff</p> <p>2 attorney working on a piece of legislation.</p> <p>3 Q. And part of that advice is whether that statute</p> <p>4 complies with federal laws?</p> <p>5 A. Federal, yes.</p> <p>6 Q. Are you aware of any communications involving the</p> <p>7 Lieutenant Governor's office regarding Section 5 and</p> <p>8 voter ID?</p> <p>9 A. No.</p> <p>10 Q. Are you aware of any communications involving the</p> <p>11 Lieutenant Governor's office involving Section 5 and</p> <p>12 Senate bill 14?</p> <p>13 A. No.</p> <p>14 Q. Are you familiar with a group called the American</p> <p>15 legislative exchange counsel or ALEC?</p> <p>16 A. Yes.</p> <p>17 Q. What's that group?</p> <p>18 A. It's a national group that does conferences and</p> <p>19 works -- I believe they have model legislation for</p> <p>20 different issues.</p> <p>21 Q. Do you have any affiliation with that group?</p> <p>22 A. I've been to -- I believe I've been to one of</p> <p>23 their meetings. But I don't have like a membership or</p> <p>24 any role with them.</p> <p>25 Q. But the meeting you attended, was voter ID</p>	<p style="text-align: center;">52</p> <p>1 San Antonio.</p> <p>2 Q. Were you also at that meeting?</p> <p>3 A. Yes.</p> <p>4 Q. Are you familiar with the group called the</p> <p>5 Federation For American Immigration Reform?</p> <p>6 A. No.</p> <p>7 Q. So I assume you have never been to any of their</p> <p>8 meetings?</p> <p>9 A. Not that I'm aware of.</p> <p>10 Q. Are there any other group whose meetings you've</p> <p>11 attended where voter ID has been discussed?</p> <p>12 A. Not that I can think of.</p> <p>13 Q. Any groups that have provided you with written</p> <p>14 materials on voter ID?</p> <p>15 A. Not that I can think of.</p> <p>16 Q. What's Texas's current system for determining the</p> <p>17 identity of a voter at the polls?</p> <p>18 A. My -- what I -- my personal understanding is you</p> <p>19 can either have your voter card that's issued by the</p> <p>20 Secretary of the State or I just use my driver's license</p> <p>21 when I vote because I can never find my voter card.</p> <p>22 Q. Do you know what forms of identification are</p> <p>23 acceptable if a person doesn't have their voter</p> <p>24 registration card with them?</p> <p>25 A. The only one I know of is the driver's license.</p>

<p style="text-align: center;">53</p> <p>1 MS. MARANZANO: Can you mark this?</p> <p>2 (Exhibit No. 132 was marked.)</p> <p>3 BY MS. MARANZANO:</p> <p>4 Q. I'm showing you what we're marking as Deposition</p> <p>5 Exhibit 132. I'm going to represent to you that this is</p> <p>6 a copy of the current Texas legislative code. Do you</p> <p>7 see that there's a list of identifications that -- do</p> <p>8 you see that list of identifications?</p> <p>9 A. Yes.</p> <p>10 Q. Does that refresh your recollection at all as to</p> <p>11 what forms of identification are acceptable under</p> <p>12 current State statute?</p> <p>13 A. Yes.</p> <p>14 Q. And are there more than just a driver's license</p> <p>15 listed there?</p> <p>16 A. Yes.</p> <p>17 Q. Are you aware of any problems that have existed</p> <p>18 under the system?</p> <p>19 MR. FREDERICK: Objection; vague. You can</p> <p>20 answer.</p> <p>21 A. I haven't spent enough time working on the issue.</p> <p>22 So the answer is no.</p> <p>23 Q. BY MS. MARANZANO: Has this system failed to</p> <p>24 prevent in person voter fraud?</p> <p>25 A. I don't have any way of knowing that.</p>	<p style="text-align: center;">55</p> <p>1 be clear that in 2005 you did not have any involvement</p> <p>2 in any efforts to pass a photo identification law?</p> <p>3 A. Yes. That's right.</p> <p>4 Q. And in 2007 you did not have any involvement in</p> <p>5 efforts to pass a voter photo identification law?</p> <p>6 A. That's right.</p> <p>7 Q. Are you familiar with the Lieutenant Governor's</p> <p>8 involvement in efforts to pass a photo voter</p> <p>9 identification law in 2005?</p> <p>10 A. No.</p> <p>11 Q. Are you familiar with the Lieutenant Governor's</p> <p>12 involvement in attempts to pass a photo voter</p> <p>13 identification law in 2007?</p> <p>14 A. No.</p> <p>15 Q. Not at all?</p> <p>16 A. Not at all.</p> <p>17 Q. How are you doing? Do you want to take a</p> <p>18 5-minute break?</p> <p>19 A. I'm good.</p> <p>20 Q. You're good? Okay.</p> <p>21 THE WITNESS: Unless you think I need one.</p> <p>22 MR. FREDERICK: No. You're good.</p> <p>23 BY MS. MARANZANO:</p> <p>24 Q. So in 2009 I believe you've testified that there</p> <p>25 was a provision in the voter identification -- in a</p>
<p style="text-align: center;">54</p> <p>1 Q. Do you know of any voter fraud, in person voter</p> <p>2 fraud that has occurred under this system?</p> <p>3 A. I don't.</p> <p>4 Q. Have you ever witnessed any voter fraud occurring</p> <p>5 when you've gone to vote yourself?</p> <p>6 A. Who knows? Not that I know of.</p> <p>7 Q. Are there any other problems that you're aware of</p> <p>8 under the current system?</p> <p>9 MR. FREDERICK: Objection; vague. You can</p> <p>10 answer.</p> <p>11 A. No.</p> <p>12 Q. When did you first hear support for enacting a</p> <p>13 photo identification requirement for voting Texas?</p> <p>14 A. I knew that they worked on the legislation in</p> <p>15 '09. I didn't follow it very closely. And so '09,</p> <p>16 2009.</p> <p>17 Q. And do you hear about this -- what were the</p> <p>18 circumstances under which you heard about the voter ID?</p> <p>19 A. It was the budget provision that I told you about</p> <p>20 earlier when they were working on the bill we put money</p> <p>21 in the budget to do voter education.</p> <p>22 Q. What were the basis' for support for voter ID</p> <p>23 when you first learned about it?</p> <p>24 A. I don't know.</p> <p>25 Q. So I believe you've testified, but I just want to</p>	<p style="text-align: center;">56</p> <p>1 voter identification bill that required certain amount</p> <p>2 of funding for voter education?</p> <p>3 A. Yes.</p> <p>4 Q. Do you know if that bill was Senate bill 362?</p> <p>5 A. I don't know.</p> <p>6 Q. Would it refresh your recollection to look at the</p> <p>7 bill?</p> <p>8 A. No. It's whatever bill passed out of the Senate</p> <p>9 in 2009 on the voter ID.</p> <p>10 Q. Do you know what happened to that bill?</p> <p>11 A. I believe it died in the House.</p> <p>12 Q. And at that time you were working as the budget</p> <p>13 director in '09?</p> <p>14 A. Yes.</p> <p>15 Q. And in relation to this funding that was -- that</p> <p>16 was requested for voter education, was that a part of</p> <p>17 the language of the bill?</p> <p>18 A. I don't know. I believe it was part of the -- I</p> <p>19 believe it was the fiscal note.</p> <p>20 Q. And did you work at all on coming up with the</p> <p>21 amount of money that would be required for that voter</p> <p>22 education program?</p> <p>23 A. No.</p> <p>24 Q. So can you tell me everything that you did in</p> <p>25 regard to the 2009 voter identification bill?</p>

<p style="text-align: center;">61</p> <p>1 been listed on the State of Texas interrogatory's</p> <p>2 responses as somebody who was involved in the</p> <p>3 development of Senate bill 14. Can you tell me each way</p> <p>4 that you were involved in the development of this piece</p> <p>5 of legislation?</p> <p>6 MR. FREDERICK: I'll object only to the</p> <p>7 extent that it may not represent the entire statement of</p> <p>8 his involvement. I don't disagree necessarily. But I</p> <p>9 want the record to reflect that we're not actually</p> <p>10 looking at the response.</p> <p>11 MS. MARANZANO: Okay.</p> <p>12 THE WITNESS: But I have no specific reason</p> <p>13 to disagree that that's what I says.</p> <p>14 MS. MARANZANO: Okay.</p> <p>15 A. So the question is.</p> <p>16 Q. BY MS. MARANZANO: Can you list for me each and</p> <p>17 every way that you were involved in the development of</p> <p>18 Senate bill 14?</p> <p>19 A. I guess if you look at it at several different</p> <p>20 levels of development. Well, the policy analyst was</p> <p>21 doing the actual -- the person that worked on this I</p> <p>22 believe had worked on it the prior session where they</p> <p>23 had had, you know, 24 hours or something of public</p> <p>24 testimony. And I assume multiple drafts. So the person</p> <p>25 that was working on it was intimately familiar with the</p>	<p style="text-align: center;">63</p> <p>1 development or drafting of Senate bill 14?</p> <p>2 A. I'm sure just in the general course of the bill</p> <p>3 moving through the legislative process, yes.</p> <p>4 Q. Do you recall any specific communications?</p> <p>5 A. No, not any specific. I mean Brian was -- Brian</p> <p>6 would try to keep us updated of what was going on. But</p> <p>7 we kind of let him work on the details.</p> <p>8 Q. Did you have any communication with legislatures</p> <p>9 about the development of SB 14?</p> <p>10 A. Yes.</p> <p>11 Q. With who?</p> <p>12 A. Senator Fraser, the bill sponsor or author. I</p> <p>13 think he's the author. And maybe other ones, but not</p> <p>14 that I recall specifically.</p> <p>15 Q. Did you have communications with legislative</p> <p>16 staff about the development of Senate bill 14?</p> <p>17 A. I'm sure I did. But I don't -- I mean, I don't</p> <p>18 recall specific instance.</p> <p>19 Q. Did you have communications with the Governor's</p> <p>20 office about the development of Senate bill 14?</p> <p>21 A. Maybe at a very high level of -- if you put it on</p> <p>22 the emergency call and were working on it.</p> <p>23 Q. What do you mean by a "very high level."</p> <p>24 A. Not any details.</p> <p>25 Q. Got it. Who would that communication have been</p>
<p style="text-align: center;">62</p> <p>1 policy and what was going on and was a very good</p> <p>2 independent staffer. So I didn't have a whole lot of</p> <p>3 reason to learn the details of the bill. And when you</p> <p>4 think about the levels, I was more just making sure that</p> <p>5 the pieces of legislation that needed to move forward</p> <p>6 moved forward, not necessarily the details.</p> <p>7 Q. Who was the policy analyst who worked on Senate</p> <p>8 bill 14?</p> <p>9 A. Brian Hebert.</p> <p>10 Q. And did he report to you?</p> <p>11 A. Yes. He reported directly to Julia and then</p> <p>12 especially on this issue since she had worked on it in</p> <p>13 2009 as well.</p> <p>14 Q. Do you have any knowledge of, I believe you</p> <p>15 said -- well, do you have any knowledge of the sources</p> <p>16 of the development of SB 14, the sources of the language</p> <p>17 of SB 14?</p> <p>18 A. I don't.</p> <p>19 Q. Other than Brian Hebert and Julia Rathgeber, are</p> <p>20 there other individuals in your office who worked on the</p> <p>21 development of Senate bill 14?</p> <p>22 A. The only one that would have had any role would</p> <p>23 be Frank Battle, our general counsel. But I think he</p> <p>24 primarily relied on Brian Hebert, as well.</p> <p>25 Q. Did you have any communications about the</p>	<p style="text-align: center;">64</p> <p>1 with?</p> <p>2 A. Probably the Governor's chief of staff.</p> <p>3 Q. And who is that person?</p> <p>4 A. Ray -- it was Ray Sullivan.</p> <p>5 Q. Did you have communications with any local</p> <p>6 elected officials about the development of Senate bill</p> <p>7 14?</p> <p>8 A. I don't think so, no.</p> <p>9 Q. Did you have communications with any constituents</p> <p>10 about Senate bill -- the development of Senate bill 14?</p> <p>11 A. No, not me personally.</p> <p>12 Q. Did the Governor's office contact your office to</p> <p>13 ask for updates on the progress of Senate bill 14?</p> <p>14 A. I'm sure they -- I don't know. Specifically I</p> <p>15 don't -- I would say probably yes, as they do with any</p> <p>16 other things. But most of it happens in public and once</p> <p>17 they put it on the call we worked on it. If they called</p> <p>18 and asked what was going on, we normally would tell</p> <p>19 them.</p> <p>20 Q. Did anyone from Lieutenant Governor's office</p> <p>21 request that Senate bill 14 be put on the emergency</p> <p>22 call?</p> <p>23 A. We might have said this is an issue that was in</p> <p>24 '09 and we need to work on it. I don't think there was</p> <p>25 any official request.</p>

<p style="text-align: center;">65</p> <p>1 Q. And who would that conversation have taken place</p> <p>2 with?</p> <p>3 A. Probably -- it would have been me.</p> <p>4 Q. It would have been you. And it would have been</p> <p>5 Mr. Sullivan or somebody else from the Governor's</p> <p>6 office?</p> <p>7 A. Ray, yeah, Ray Sullivan.</p> <p>8 Q. It would have been you, but do you --</p> <p>9 A. I don't recall a specific conversation. But I</p> <p>10 would have -- I would have said this is an -- this is an</p> <p>11 issue that we know is going to have to be worked on in</p> <p>12 the 2011 session and I would have -- I would have asked</p> <p>13 him to put it on there.</p> <p>14 Q. And what -- what would be the reasons for putting</p> <p>15 it on the emergency call?</p> <p>16 MR. FREDERICK: I'm going to object on the</p> <p>17 basis of privilege to the extent this calls for your</p> <p>18 thought process or the Lieutenant Governor's thought</p> <p>19 process about impending bill and instruct you not to</p> <p>20 answer.</p> <p>21 BY MS. MARANZANO:</p> <p>22 Q. Are you following your counsel's instruction?</p> <p>23 A. Yes.</p> <p>24 Q. I believe you testified that this was</p> <p>25 something -- if you had made the request it is because</p>	<p style="text-align: center;">67</p> <p>1 words when I said have to. My point was it had not</p> <p>2 passed in '09 and given the amount of public testimony</p> <p>3 that had been -- that had been taken during the '09</p> <p>4 session it was just a safe assumption that it was going</p> <p>5 to come up again in 2011. Probably the words have to --</p> <p>6 were probably a bad choice of words.</p> <p>7 Q. When you say it was the safe assumption that it</p> <p>8 was going to come up in 2011, was the Lieutenant</p> <p>9 Governor working to make sure it would come up in 2011?</p> <p>10 MR. FREDERICK: I'm going to object on the</p> <p>11 basis of privilege and instruct you not to answer.</p> <p>12 BY MS. MARANZANO:</p> <p>13 Q. In terms of the 2009 consideration of voter</p> <p>14 identification, are you familiar with the testimony that</p> <p>15 occurred around that bill?</p> <p>16 A. I just know that it was 2009. I remember that</p> <p>17 night because they all stayed up there working on it and</p> <p>18 I got to go home that time.</p> <p>19 Q. Well, in regards to the testimony, am I</p> <p>20 understanding you correctly that it was the significant</p> <p>21 interest in the bill was one of the things that led you</p> <p>22 to think this issue would come up again in the 2011</p> <p>23 legislative session?</p> <p>24 A. Yes.</p> <p>25 Q. And was that significant interest both support</p>
<p style="text-align: center;">66</p> <p>1 this is something that would have to be worked on in the</p> <p>2 2011 legislative session?</p> <p>3 A. Yes.</p> <p>4 Q. Why is that?</p> <p>5 MR. FREDERICK: Object as vague, also object</p> <p>6 to the extent it calls for your thought process or the</p> <p>7 Lieutenant Governor's thought process about pending</p> <p>8 legislation. I think, as phrased, I have to instruct</p> <p>9 you not to answer the question on the basis of</p> <p>10 privilege.</p> <p>11 BY MS. MARANZANO:</p> <p>12 Q. Let me try another way and see if it works. I'm</p> <p>13 trying to understand what you meant by this would have</p> <p>14 to be worked on in the 2011 session. Why did this bill</p> <p>15 have to be worked on? What was the -- well, what do you</p> <p>16 mean by that statement?</p> <p>17 MR. FREDERICK: Let me just make the same</p> <p>18 cautionary objection. If you can answer the question</p> <p>19 generally without revealing a privileged communication</p> <p>20 between the Lieutenant Governor's office and any</p> <p>21 legislator or the Lieutenant Governor or his staff's</p> <p>22 thought process about the specific bill, you may answer.</p> <p>23 If you would have to reveal that, I would instruct you</p> <p>24 not to answer.</p> <p>25 A. I think that -- maybe I used a poor choice of</p>	<p style="text-align: center;">68</p> <p>1 and opposition for the bill?</p> <p>2 A. There was definitely support and opposition for</p> <p>3 the bill.</p> <p>4 Q. Who were the main supporters of the bill?</p> <p>5 MR. FREDERICK: I will just object and -- on</p> <p>6 the basis of privilege and just caution you -- I think</p> <p>7 the question as phrased does not seek the substance of</p> <p>8 any confidential privileged communication. So I just</p> <p>9 caution you not to reveal the substance of any</p> <p>10 communication with the Legislature.</p> <p>11 A. I think, generically, it was a very party line</p> <p>12 issue. Republicans supported it and the Democrats did</p> <p>13 not.</p> <p>14 Q. Were there other people testifying about the bill</p> <p>15 other than legislators during the consideration of the</p> <p>16 voter identification bill in 2009?</p> <p>17 A. I don't know. I think the answer is yes.</p> <p>18 Q. Do you know if any group supporting -- I'm sorry.</p> <p>19 Do you know if any groups representing minority voters</p> <p>20 were in support of the voter identification bill in</p> <p>21 2009?</p> <p>22 MR. FREDERICK: Objection; vague.</p> <p>23 Objection; relevance. But you can answer.</p> <p>24 A. I don't know.</p> <p>25 Q. BY MS. MARANZANO: Why was this a party -- a very</p>

<p style="text-align: center;">69</p> <p>1 party line issue?</p> <p>2 MR. FREDERICK: I would object on the basis</p> <p>3 of privilege to the extent this asks for a thought</p> <p>4 process or mental impression of yourself, the Lieutenant</p> <p>5 Governor or a legislator or any privileged</p> <p>6 communications about the bill, if you can answer</p> <p>7 generally, you may do so.</p> <p>8 A. Generally any news story that you looked at</p> <p>9 clearly showed that it was a party line issue.</p> <p>10 Q. BY MS. MARANZANO: Do you know if any of the</p> <p>11 minority members of the Senate were supporting the voter</p> <p>12 identification bill in 2009?</p> <p>13 A. I don't know.</p> <p>14 Q. Do you know if any supported the voter</p> <p>15 identification bill in Senate bill 14 in 2011?</p> <p>16 MR. FREDERICK: Objection; vague.</p> <p>17 Objection; relevance. You can answer.</p> <p>18 A. I don't think so. Did you say on the Senate</p> <p>19 side?</p> <p>20 Q. BY MS. MARANZANO: I did say on the Senate side?</p> <p>21 A. I don't think so.</p> <p>22 Q. Did it concern the Lieutenant Governor that no</p> <p>23 minority members of the Senate were supporting Senate</p> <p>24 bill 14?</p> <p>25 MR. FREDERICK: Objection; legislative</p>	<p style="text-align: center;">71</p> <p>1 that question?</p> <p>2 A. Brian Hebert.</p> <p>3 Q. And would the Lieutenant Governor know?</p> <p>4 A. I'm sure if he marked something up, I'm sure.</p> <p>5 Q. Were any additional forms of identification</p> <p>6 considered to be added to Senate bill 14?</p> <p>7 MR. FREDERICK: Objection; legislative</p> <p>8 privilege. Instruct you not to answer.</p> <p>9 BY MS. MARANZANO:</p> <p>10 Q. Did the Lieutenant Governor or anyone in your</p> <p>11 office conduct any analysis as to how many registered</p> <p>12 voters possessed the forms of identification required in</p> <p>13 Senate bill 14?</p> <p>14 MR. FREDERICK: Object on the basis of</p> <p>15 privilege and instruct you not to answer.</p> <p>16 BY MS. MARANZANO:</p> <p>17 Q. Are you familiar with the concept of a Spanish</p> <p>18 surname voter analysis?</p> <p>19 A. No.</p> <p>20 Q. You never heard of that?</p> <p>21 A. No.</p> <p>22 Q. What was the purpose of Senate bill 14?</p> <p>23 A. My personal opinion of the purpose was to make</p> <p>24 sure that a person was, via a photo ID, who they say</p> <p>25 they were when they went to vote in person.</p>
<p style="text-align: center;">70</p> <p>1 privilege. Instruct you not to answer.</p> <p>2 BY MS. MARANZANO:</p> <p>3 Q. For the record, you're following your counsel's</p> <p>4 instruction?</p> <p>5 A. Yes.</p> <p>6 Q. How many Senate Republicans are minority members</p> <p>7 or members of a racial or ethnic minorities?</p> <p>8 MR. FREDERICK: Objection; relevance. But</p> <p>9 you may answer.</p> <p>10 A. None.</p> <p>11 Q. In regards to the drafting of Senate bill 14, was</p> <p>12 the Lieutenant Governor himself involved in the drafting</p> <p>13 of this bill?</p> <p>14 A. No.</p> <p>15 Q. Did you or anyone from your office exchange</p> <p>16 drafts of Senate bill 14 with anybody?</p> <p>17 A. The staff would have exchanged it with Senator</p> <p>18 Fraser or the Legislative Council.</p> <p>19 Q. Did the Lieutenant Governor mark out any drafts</p> <p>20 of Senate bill 14?</p> <p>21 A. Not that I'm aware of.</p> <p>22 Q. If he'd done that, do you think you would be</p> <p>23 aware?</p> <p>24 A. Maybe. But not every time.</p> <p>25 Q. Would anybody -- who would know the answer to</p>	<p style="text-align: center;">72</p> <p>1 Q. Any other purposes?</p> <p>2 A. Not that I'm aware of.</p> <p>3 Q. And how does Senate bill 14 ensure that the</p> <p>4 person is who they say they are when they go to vote?</p> <p>5 MR. FREDERICK: Object on the basis of</p> <p>6 privilege only to the extent that this seeks your</p> <p>7 thought process, the Lieutenant Governor's thought</p> <p>8 process about this bill or any legislators understanding</p> <p>9 that has been communicated to you to the extent that you</p> <p>10 have a general understanding not based on privilege.</p> <p>11 You can answer if you can.</p> <p>12 A. I don't think I would have anything to add that</p> <p>13 wasn't privileged.</p> <p>14 Q. BY MS. MARANZANO: Okay. Would forms of</p> <p>15 identification that are not listed in Senate bill 14</p> <p>16 also ensure that a person is who they say they are at</p> <p>17 the polls?</p> <p>18 MR. FREDERICK: Object. Calls for</p> <p>19 speculation. Also object on the basis of privilege to</p> <p>20 the extent it calls for any thought process, mental</p> <p>21 impressions or communications. If you can answer</p> <p>22 without revealing any privileged matters, you can do so.</p> <p>23 A. I don't know. I don't know what other forms</p> <p>24 would fit that bill.</p> <p>25 Q. BY MS. MARANZANO: You don't know what other</p>

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1 forms of identification might verify that a person is  
2 who they say they are?

3 A. No.

4 Q. Were there any specific problems with a person  
5 voting not as the person that -- were there any specific  
6 problems with in person voter impersonation that Senate  
7 bill 14 was attempting to address?

8 MR. FREDERICK: I'll object on the basis of  
9 privilege. To the extent this would call for thought  
10 process, mental impressions of yourself, the Lieutenant  
11 Governor or his staff or any communications by a  
12 legislator other than on the floor or in a debate. If  
13 you can answer without revealing those matters, you can  
14 do so.

15 A. I don't have any personal history with it as far  
16 as knowing about it. And there was testimony, I  
17 believe, on the floor that -- other than following  
18 debate, you know, the entire debate. But I know there  
19 was some discussion examples of voter fraud. But I  
20 couldn't tell you myself what they were.

21 Q. By MS. MARANZANO: So are you -- are you aware of  
22 whether those examples of voter fraud were convictions  
23 of voter fraud?

24 A. I don't know.

25 Q. Do you know anything more about those examples of

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1 voter fraud than what you've already testified to?

2 A. No.

3 Q. Is there any other type of voter fraud other than  
4 in person voter impersonation that SB 14 would solve?

5 A. I don't know.

6 Q. You have no opinion on that?

7 A. No.

8 Q. Are you aware of any incidents of in person voter  
9 fraud in the State of Texas in the last 20 years?

10 MR. FREDERICK: I'll object on the basis of  
11 privilege only to the extent that this would call for  
12 something that was communicated to you in confidence by  
13 a legislator or with the Lieutenant Governor or his  
14 staff, but if you can answer without revealing that, you  
15 may do so.

16 A. I don't know. The testimony that happened during  
17 the debate would have to stand on its own. And I didn't  
18 follow it closely.

19 Q. BY MS. MARANZANO: Do you believe it would be a  
20 sufficient deterrent to voter fraud to increase criminal  
21 penalties for committing voter fraud?

22 MR. FREDERICK: I'll object on the basis of  
23 relevance. To the extent it seeks his personal opinion  
24 and to the extent it seeks the thought process of the  
25 Lieutenant Governor or his staff about SB 14

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1 specifically, I instruct you not to answer on the basis  
2 of privilege.

3 BY MS. MARANZANO:

4 Q. And you're following your counsel's instruction?

5 A. Yes.

6 (Exhibit No. 115 was marked)

7 Q. (By Ms. Maranzano) This has been previously  
8 marked. I'm going to show you what we previously marked  
9 as Deposition Exhibit 115. Can you take a look at that?  
10 Does this look familiar to you?

11 A. Sort of. I think I've seen it before. But I  
12 don't -- I don't know who produced this.

13 Q. Do you -- do you believe this came from your  
14 office?

15 A. I don't -- I don't know.

16 Q. You don't know if you've seen it in the context  
17 of your --

18 A. I don't know if my office produce it.

19 Q. Okay. But when you said you've seen it before,  
20 would you have seen it in your capacity as chief of  
21 staff for the Lieutenant Governor?

22 A. Yes. It looks familiar, but I don't remember  
23 exactly where I've seen it.

24 Q. So do you know who wrote this?

25 A. No.

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1 Q. Do you know what it was written for?

2 A. It was just talking -- or talking points for,  
3 looks like for the voter ID bill.

4 Q. And what would be the purpose of these talking  
5 points for the voter ID bill?

6 A. I don't -- I don't know. You know --

7 Q. Oh, I'm sorry.

8 A. I don't know. Whose document is this?

9 Q. Well, this document -- I will represent to you  
10 that this document was produced as a document from the  
11 Lieutenant Governor's office?

12 A. Okay. Okay.

13 Q. So are talking points created for the Lieutenant  
14 Governor on pieces of legislation?

15 A. Yes.

16 Q. Could this -- would this be talking points for  
17 the Lieutenant Governor?

18 A. It could have been if we produced it.

19 Q. And who would have written this?

20 A. Probably Brian Hebert.

21 Q. And do you see up at the top where it says AD2R?

22 A. Yes.

23 Q. Do you -- do you think that refers to legislation  
24 session?

25 A. Yes. Probably.

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1 Q. So this is most likely was about Senate bill 14;  
2 is that correct?  
3 A. Yes.  
4 Q. And do you see on the top right-hand corner there  
5 is a number written?  
6 A. Yes.  
7 Q. Do you know what that is?  
8 A. This one?  
9 Q. Yeah. Not the exhibit number. But that  
10 handwritten number?  
11 A. No.  
12 Q. Is that -- is that a reference to the Texas code?  
13 A. I'm not sure.  
14 Q. You're not sure?  
15 A. No. Looks like a coding -- some kind of coding.  
16 Q. Can you look at what's listed as Roman Numeral 1,  
17 the threat of fraud is real, and I would like to direct  
18 your attention to the first bullet there?  
19 A. Yeah.  
20 Q. Can you tell me, apart from Senate bill 14, what  
21 efforts is Texas making to ensure that it's voter  
22 registration rules are accurate?  
23 A. I'm not advised.  
24 Q. You don't know?  
25 A. No.

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1 Q. Are you familiar with a federal law called the  
2 National Voter Registration Act?  
3 A. No.  
4 Q. Not at all?  
5 A. Not at all.  
6 Q. Can you look at the third bullet in that same  
7 talking point?  
8 A. Yes.  
9 Q. And it says, "Texas election administration  
10 management system is improving, but continues to have  
11 accuracy problems"?  
12 A. Okay.  
13 Q. Can you tell me how Senate bill 14 would impact  
14 the accuracy level of the Texas election administration  
15 management system?  
16 MR. FREDERICK: Just object to the extent  
17 this would require you to reveal any privileged  
18 communications or matters. But to the extent you can  
19 answer it without getting into that, you can.  
20 A. I don't -- I don't know.  
21 Q. Okay.  
22 A. I don't know what that system is.  
23 Q. Okay. Was any part of the purpose of Senate bill  
24 14 to decrease the number of Hispanic voters?  
25 A. No.

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1 Q. What's your basis for saying that?  
2 A. It's never -- that never came up.  
3 Q. Okay. Never came up in what?  
4 A. As far as why people were working on the bill.  
5 Q. And you're basing that on your conversations with  
6 who?  
7 A. Well, I guess with members as the process moved  
8 along.  
9 Q. And can you tell me specifically what members  
10 you're referring to?  
11 MR. FREDERICK: Object on the basis of  
12 misstates -- it mischaracterizes the prior testimony. I  
13 want to let him answer the question. I'm not sure I  
14 quite understand what the question is getting at.  
15 BY MS. MARANZANO:  
16 Q. Okay. Let's back up. I asked you whether any  
17 purpose of the -- whether any part of the purpose of  
18 Senate bill 14 was to decrease the number of Hispanic  
19 voters and you said no?  
20 A. No. Right.  
21 Q. And when I asked you your basis, you said that  
22 was not what anybody working on the bill, that never  
23 came up from anybody working on the bill? Is that --  
24 A. Right.  
25 Q. So I just want to know who specifically you're

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1 talking about?  
2 MR. FREDERICK: I'll object as vague to the  
3 extent that it seems to be asking who didn't say  
4 something. I'll object on the basis of privilege to the  
5 extent it asks Mr. Brunson to reveal the content of a  
6 specific conversation with a member. I think on that  
7 basis, I would instruct you not to answer.  
8 BY MS. MARANZANO:  
9 Q. And you're following your counsel's instruction?  
10 A. Yes.  
11 Q. Was any part of the purpose of SB 14 to decrease  
12 the number of minority voters?  
13 MR. FREDERICK: I'm going to object on the  
14 basis of legislative privilege. You may answer based on  
15 your own knowledge, but don't reveal -- I'll caution  
16 you, based on privilege, not to reveal the content of  
17 any communication with legislator or Lieutenant  
18 Governor.  
19 A. Not that I'm aware of.  
20 Q. BY MS. MARANZANO: And what's your basis for  
21 saying that?  
22 MR. FREDERICK: Same instruction.  
23 BY MS. MARANZANO:  
24 Q. Was any part of the purpose of Senate bill 14 to  
25 deter non-citizens from voting?

<p style="text-align: center;">81</p> <p>1 A. Not that I'm aware of.</p> <p>2 Q. And what's your basis for saying that?</p> <p>3 MR. FREDERICK: Just a cautionary objection</p> <p>4 on the basis of privilege not to reveal the content of</p> <p>5 any privileged communication. But you may answer if you</p> <p>6 can do so.</p> <p>7 A. I just never heard it discussed.</p> <p>8 Q. BY MS. MARANZANO: Was any part of the purpose</p> <p>9 for Senate bill 14 for partisan purposes?</p> <p>10 A. It was divided on party lines. But I'm not --</p> <p>11 the law would apply equally to Democrats and</p> <p>12 Republicans.</p> <p>13 Q. Was any part of the purpose of Senate bill 14 to</p> <p>14 depress the turn out of Democratic voters?</p> <p>15 A. Not that I'm aware of.</p> <p>16 Q. What's your basis for saying that?</p> <p>17 MR. FREDERICK: Same cautionary objection</p> <p>18 not to reveal any privileged communications, but you may</p> <p>19 answer if you can do so without revealing.</p> <p>20 A. It's the same answer as the others. It just</p> <p>21 never was discussed as a reason for working on the bill.</p> <p>22 Q. BY MS. MARANZANO: Do you think if that was a</p> <p>23 reason it would be discussed?</p> <p>24 MR. FREDERICK: Objection; relevance.</p> <p>25 Objection; calls for speculation.</p>	<p style="text-align: center;">83</p> <p>1 MS. MARANZANO: Yeah. Why don't we take a</p> <p>2 quick break now, 5 minutes.</p> <p>3 THE WITNESS: Sounds good.</p> <p>4 (Brief recess.)</p> <p>5 BY MS. MARANZANO:</p> <p>6 Q. Let's go back on the record. Mr. Brunson, before</p> <p>7 the break we were talking about the purposes of SB 14.</p> <p>8 Does a bill ever have unspoken but understood purposes?</p> <p>9 MR. FREDERICK: Objection; vague. You can</p> <p>10 answer.</p> <p>11 A. Not that I'm aware of.</p> <p>12 Q. BY MS. MARANZANO: You don't know of any instance</p> <p>13 where -- where that would be your understanding of the</p> <p>14 purpose of a bill?</p> <p>15 A. None that I can think of.</p> <p>16 (Exhibit No. 112 was marked.)</p> <p>17 Q. (By Ms. Maranzano) I'm going to show you what</p> <p>18 we've previously marked as Deposition Exhibit 112. Does</p> <p>19 this look familiar to you? Does it look like it could</p> <p>20 be from the Lieutenant Governor's campaign website?</p> <p>21 A. Yes.</p> <p>22 Q. Can you look at what is the third page, but since</p> <p>23 it's back to back it appears on the second page under</p> <p>24 the topic that says strongly opposes illegal</p> <p>25 immigration? Do you see the first item under that says</p>
<p style="text-align: center;">82</p> <p>1 A. Could you repeat it?</p> <p>2 Q. BY MS. MARANZANO: If -- if said motivation was</p> <p>3 for partisan purposes, would that actually come up in</p> <p>4 discussions?</p> <p>5 MR. FREDERICK: Same objection, but you can</p> <p>6 answer.</p> <p>7 A. I would assume it would.</p> <p>8 Q. BY MS. MARANZANO: Was any part of the purpose of</p> <p>9 Senate bill 14 to discriminate in any way against any</p> <p>10 group or groups of minority voters?</p> <p>11 A. No, not that I'm aware of.</p> <p>12 Q. And what's your basis for saying that?</p> <p>13 A. It was never discussed.</p> <p>14 Q. And do you think that would be discussed if that</p> <p>15 was part of the purpose of Senate bill 14?</p> <p>16 MR. FREDERICK: Objection; relevance and</p> <p>17 calls for speculation. You can answer.</p> <p>18 A. I would assume so.</p> <p>19 Q. BY MS. MARANZANO: Have you ever heard that come</p> <p>20 up as a purpose for any legislation you've worked on in</p> <p>21 any of your discussions while serving as a staffer for</p> <p>22 the Lieutenant Governor?</p> <p>23 A. No.</p> <p>24 MR. FREDERICK: Jennifer, when you get to a</p> <p>25 good stopping point can we take a quick break?</p>	<p style="text-align: center;">84</p> <p>1 Dewhurst pushed for voter ID in two sessions?</p> <p>2 A. Yes.</p> <p>3 Q. What does voter identification have to do with</p> <p>4 opposing illegal immigration?</p> <p>5 MR. FREDERICK: I'll object on the basis of</p> <p>6 privilege only to the extent this would call for</p> <p>7 privileged communications or the Lieutenant Governor's</p> <p>8 thought process about a specific bill. If you can</p> <p>9 answer without doing that, you can do so.</p> <p>10 A. I don't know why the campaign would lay it out</p> <p>11 like this.</p> <p>12 Q. BY MS. MARANZANO: Do you see any connection</p> <p>13 between the voter ID bills and opposing illegal</p> <p>14 immigration?</p> <p>15 MR. FREDERICK: Objection; relevance, but</p> <p>16 you can answer.</p> <p>17 A. I haven't thought about it. And I don't really</p> <p>18 have an opinion on it.</p> <p>19 Q. BY MS. MARANZANO: Are non-citizens able to</p> <p>20 obtain the forms of identification required by Senate</p> <p>21 14?</p> <p>22 A. I don't know.</p> <p>23 Q. Are non-citizens able to obtain a Texas driver's</p> <p>24 license?</p> <p>25 A. I don't know the answer to that.</p>

<p style="text-align: center;">85</p> <p>1 Q. Are non-citizens able to obtain a military 2 identification card? 3 A. I don't know the answer to that, either. 4 Q. Are non-citizens able to obtain a concealed 5 handgun license? 6 A. I don't know the answer. 7 Q. Are you familiar with a federal law called the 8 Help America Vote Act? 9 A. Yes. 10 Q. Do you know what that act requires? 11 A. I don't. 12 Q. Do you know if pursuant to that act certain voter 13 registration applications are verified against other 14 State databases? 15 A. I don't. 16 THE WITNESS: Other State what? 17 MS. MARANZANO: Databases. 18 BY MS. MARANZANO: 19 Q. Are you aware of whether a voter registration 20 applicant needs to swear on their -- or sign under oath 21 on their voter registration application that they are a 22 United States citizen? 23 A. I don't know. 24 (Exhibit No. 119 was marked) 25 Q. (By Ms. Maranzano) I'm going to show you what we</p>	<p style="text-align: center;">87</p> <p>1 Q. Do you know how much it costs to acquire a United 2 States passport? 3 A. I do not. 4 Q. What is a military identification card? 5 A. A card that someone in the military has. An ID 6 the card for military personnel. 7 Q. How many forms of military identification cards 8 are there? 9 A. I have no idea. 10 Q. Have you ever seen a military identification 11 card? 12 A. Yes. 13 Q. In what context? 14 A. A friend that had one. 15 Q. Okay. And what branch of the military was that? 16 A. Air Force. 17 Q. Do you know if every branch of the military 18 issues an identification card? 19 A. I don't know. 20 Q. Is a veteran's identification an acceptable form 21 of identification under SB 14? 22 A. I don't know. 23 Q. Who would know that? 24 A. Probably Brian Hebert. 25 Q. Do you know what steps are required to obtain a</p>
<p style="text-align: center;">86</p> <p>1 previously marked as Deposition Exhibit 119. Does this 2 look familiar to you? 3 MR. FREDERICK: No wonder it was hot. We 4 pushed it all the way up and it's supposed to be all the 5 way down. Go team. 6 BY MS. MARANZANO: 7 Q. Does this document look familiar to you? 8 A. It looks very similar to the earlier document. 9 Q. Is this something that you've seen before? Oh, 10 it's because I -- I think I may have given you the wrong 11 one. Sorry. Let me get my -- let me get my exhibits 12 organized in a second. All right. Sorry about that. 13 Do you know if previous versions of voter identification 14 bills allowed for a voter to show one form of photo 15 identification or two forms of non-photo identification? 16 A. I don't know. 17 Q. Is it your opinion that two forms of non-photo 18 identification would verify the identify of a voter? 19 MR. FREDERICK: Objection; relevance, but 20 you may answer. 21 A. I don't have an -- I don't have an opinion on 22 that. 23 Q. BY MS. MARANZANO: Do you know what steps are 24 necessary to take to acquire a United States passport? 25 A. I don't.</p>	<p style="text-align: center;">88</p> <p>1 citizen -- citizenship certificate? 2 A. I do not. 3 Q. Are you familiar with the portion of SB 14 that 4 allows for a form of identification called the election 5 identification certificate? 6 A. No. 7 Q. You're not familiar with that at all? 8 A. Not at all. 9 Q. Are you familiar with the provisions of Senate 10 bill 14 that deal with provisional ballots? 11 A. No. 12 Q. Who would be familiar with those two provisions 13 of SB 14 from the Lieutenant Governor's office? 14 A. Brian Hebert or maybe Julia, but for sure Brian. 15 Q. I believe you testified earlier that SB 14 was 16 placed on the Governor's emergency call list; is that 17 correct? 18 A. Yes. 19 Q. Do you think that it was an emergency to consider 20 this bill? 21 MR. FREDERICK: Objection; relevance. You 22 may answer. 23 A. It wasn't -- wasn't my call to make. 24 Q. BY MS. MARANZANO: I believe you testified 25 earlier that you may have actually asked for it to be</p>

<p style="text-align: center;">89</p> <p>1 given that designation; isn't that correct?</p> <p>2 MR. FREDERICK: Objection; mischaracterizes</p> <p>3 testimony. You may answer.</p> <p>4 A. I said I would have. I wouldn't put it past to</p> <p>5 ask for it just because of the timing. You can work on</p> <p>6 emergency legislation in the first 60 days of the</p> <p>7 session.</p> <p>8 Q. BY MS. MARANZANO: Were there any elections</p> <p>9 occurring within the first 60 days of the session?</p> <p>10 A. There may have been a Dallas Mayoral election.</p> <p>11 Q. A local election?</p> <p>12 A. I think so. I don't -- there weren't any -- I</p> <p>13 don't believe there were any statewide elections. There</p> <p>14 were not any statewide elections.</p> <p>15 Q. Was there an effort to -- on the part of the</p> <p>16 Lieutenant Governor to move this bill very quickly</p> <p>17 through Legislature?</p> <p>18 MR. FREDERICK: I'll object based on</p> <p>19 privilege. To the extent this would called for the</p> <p>20 Lieutenant Governor's thought process or mental</p> <p>21 impressions or communications that you had with him or</p> <p>22 he had with other legislators. If you can answer the</p> <p>23 specific question without getting into privileged</p> <p>24 matters, you may do so.</p> <p>25 THE WITNESS: Do you mind repeating the</p>	<p style="text-align: center;">91</p> <p>1 BY MS. MARANZANO:</p> <p>2 Q. I'm showing you what we're marking as Deposition</p> <p>3 Exhibit 134. Do you recognize this document?</p> <p>4 A. Yes.</p> <p>5 Q. What is it?</p> <p>6 A. It's a letter from the Lieutenant Governor to</p> <p>7 Senator Birdwell.</p> <p>8 Q. And who would have drafted this letter?</p> <p>9 A. Probably Brian Hebert.</p> <p>10 Q. Do you know why it was being sent to Senator</p> <p>11 Birdwell?</p> <p>12 MR. FREDERICK: Objection to the extent it</p> <p>13 calls for the Lieutenant Governor's thought process or</p> <p>14 any privileged communications, I would instruct you not</p> <p>15 to answer. However, if you can answer based on</p> <p>16 non-privileged matters, you may do so.</p> <p>17 A. I'm going to follow his advice.</p> <p>18 Q. BY MS. MARANZANO: Okay. Do you know if a letter</p> <p>19 like this would be distributed to all members of the</p> <p>20 Senate?</p> <p>21 A. I believe it was.</p> <p>22 Q. And do you see in the first sentence it says, "on</p> <p>23 Monday January 24th, it's my intent to recognize Senator</p> <p>24 Robert Duncan for a motion of resolving the Senate into</p> <p>25 a Committee-of-the-Whole to consider Senate bill 14"?</p>
<p style="text-align: center;">90</p> <p>1 question?</p> <p>2 THE REPORTER: Sure.</p> <p>3 THE WITNESS: Sorry.</p> <p>4 THE REPORTER: No problem.</p> <p>5 (Requested question was read.)</p> <p>6 MR. FREDERICK: Same instruction and</p> <p>7 objection.</p> <p>8 A. I guess the fact of the matter is it moved</p> <p>9 earlier in the session, but that's because it was on the</p> <p>10 emergency call.</p> <p>11 Q. BY MS. MARANZANO: But I guess my question is, is</p> <p>12 somewhat the reverse of that. Was it placed on the</p> <p>13 emergency call so that it could be moved very quickly</p> <p>14 through the session?</p> <p>15 MR. FREDERICK: Objection. To the extent</p> <p>16 this calls for Lieutenant Governor's thought process or</p> <p>17 that of his staff or any communications you had with him</p> <p>18 about SB 14, I would instruct you not to answer. If you</p> <p>19 can answer based on non-privileged matters, you may do</p> <p>20 so.</p> <p>21 A. I think it is based on his thought process. So I</p> <p>22 wouldn't -- I think I can't answer that question.</p> <p>23 Q. BY MS. MARANZANO: Okay.</p> <p>24 MS. MARANZANO: Can we mark this.</p> <p>25 (Exhibit No. 134 was marked.)</p>	<p style="text-align: center;">92</p> <p>1 Is your recollection that that is indeed what happened</p> <p>2 on January 24, 2011?</p> <p>3 A. I don't recall the exact date. But I think it</p> <p>4 did.</p> <p>5 Q. Did the Senate resolve into the</p> <p>6 Committee-of-the-Whole when it considered Senate bill</p> <p>7 14?</p> <p>8 A. Yes.</p> <p>9 Q. Why was Senator Duncan recognized for the purpose</p> <p>10 of bringing that motion?</p> <p>11 MR. FREDERICK: Objection; legislative</p> <p>12 privilege. I would instruct you not to answer unless</p> <p>13 you can do so without revealing the Lieutenant</p> <p>14 Governor's thought process or any privileged</p> <p>15 communications.</p> <p>16 A. I can't.</p> <p>17 Q. BY MS. MARANZANO: Was Senate bill 14 considered</p> <p>18 in any other committees other than the</p> <p>19 Committee-of-the-Whole?</p> <p>20 A. Not that -- not that I'm aware of.</p> <p>21 Q. Is that common for a bill to only be considered</p> <p>22 by the Committee-of-the-Whole?</p> <p>23 A. It's not common, but the Committee-of-the-Whole</p> <p>24 serves as a traditional committee when it's formed and</p> <p>25 so the only difference is all the members are there to</p>

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1 enter testimony at the same time.  
 2 Q. Does it also mean that the Lieutenant Governor  
 3 has a different role in the proceedings?  
 4 A. He does have a different role in the proceedings.  
 5 Q. And what is that role during the  
 6 Committee-of-the-Whole?  
 7 A. As we discussed earlier in the rules, he can  
 8 participate in the debate and vote.  
 9 Q. And if a bill was referred to a different  
 10 Committee, would he have any role in those proceedings?  
 11 A. No direct role.  
 12 Q. Would he have an indirect role?  
 13 A. Just referring which bill the Committee went to  
 14 and -- no.  
 15 Q. Was Senate bill 14 referred to the  
 16 Committee-of-the-Whole so the Lieutenant Governor could  
 17 debate and vote on it?  
 18 MR. FREDERICK: Objection. Calls for  
 19 legislative privilege. Instruct you not the answer.  
 20 BY MS. MARANZANO:  
 21 Q. Was Senate bill 14 referred to the  
 22 Committee-of-the-Whole so the bill could move more  
 23 quickly through Senate?  
 24 MR. FREDERICK: Objection; legislative  
 25 privilege. Instruct you not to answer.

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1 BY MS. MARANZANO:  
 2 Q. Were there any communications that you or others  
 3 in your office had about the decision to refer Senate  
 4 bill 14 to the Committee-of-the-Whole?  
 5 MR. FREDERICK: Objection; vague. I would  
 6 also object -- I think that the question is actually  
 7 asking for the content of communications. However, on  
 8 the basis of legislative privilege I just caution you  
 9 not to reveal the substance of any communications.  
 10 A. Yes, there were discussions.  
 11 Q. BY MS. MARANZANO: And when were those  
 12 discussions?  
 13 A. Prior to -- prior to January 20th, probably  
 14 between the first two or three weeks of January, maybe  
 15 some in December.  
 16 Q. And who were those discussions with?  
 17 A. Primarily -- primarily the bill sponsor.  
 18 Q. And that's Senator Fraser?  
 19 A. Yes.  
 20 Q. And those conversations were with you or with  
 21 others in the office?  
 22 A. I -- probably -- probably some level me, but  
 23 probably more likely Brian Hebert and his staff  
 24 discussing the content of the bill.  
 25 Q. Did Senator Fraser request that this bill get

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1 referred to the Committee-of-the-Whole?  
 2 A. I don't recall.  
 3 Q. Did the Lieutenant Governor participate in the  
 4 debate during the Committee-of-the-Whole?  
 5 A. I don't -- I don't think he did.  
 6 Q. Were you -- what was your role during the  
 7 Committee-of-the-Whole's consideration of Senate bill 14  
 8 in regards to this piece of legislation?  
 9 A. During the debate?  
 10 Q. Uh-huh.  
 11 A. I was probably working on something else. But I  
 12 did not have a role during the debate.  
 13 Q. You weren't necessary in touch with the  
 14 Lieutenant Governor during the debate?  
 15 A. I was in touch with him, but probably not related  
 16 to voter ID. It was probably what else was going on and  
 17 because Brian Hebert would have been staffing the  
 18 Lieutenant Governor during the debate.  
 19 Q. And so would Brian Hebert have been with the  
 20 Lieutenant Governor on the floor during the debate?  
 21 A. Probably. Most likely.  
 22 Q. Was one of your roles in connection with Senate  
 23 bill 14 to try to ensure that it was passed?  
 24 A. Yes.  
 25 Q. How did you do that?

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1 A. Just made sure the process was orderly and moved  
 2 forward.  
 3 Q. What do you mean by "orderly"?  
 4 A. Well, that the members knew that it was coming up  
 5 for debate. But as far as a decision-making role on the  
 6 bill, I didn't have a decision-making role. Just more  
 7 of just making sure that if that's what they were going  
 8 to discuss. Just like any other issue. If that is what  
 9 they were going to discuss, then people were there,  
 10 staff wise and make sure the Lieutenant Governor was  
 11 there. So it was -- it was not a policy role.  
 12 Q. And in terms of a decision-making role, did  
 13 anybody other than the Lieutenant Governor have a role  
 14 in making decisions on this bill?  
 15 A. The members, the members of the Senate.  
 16 Q. I'm sorry. I mean in reference to your office,  
 17 in reference to the Lieutenant Governor's office?  
 18 A. He had the final decision-making authority.  
 19 MS. MARANZANO: Can you mark this?  
 20 (Exhibit No. 135 was marked.)  
 21 BY MS. MARANZANO:  
 22 Q. Can you take a look at this for me? I'm sorry.  
 23 I'm showing you what we're marking as Deposition  
 24 Exhibit 135. Can you tell me if you have seen this  
 25 letter before? Does it look familiar to you?

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1 A. Yes. Absolutely.  
 2 Q. You have. And what context have you seen it?  
 3 A. I received it -- at least a copy of it when she  
 4 sent this during session.  
 5 Q. And can you look at the second paragraph for me  
 6 that says, "first of all the Lieutenant Governor fully  
 7 aware that most, if not all of the Senators have left  
 8 town on Thursday." Is that referring -- that paragraph  
 9 where it talks about the letter being distributed to all  
 10 members; is that referring to the letter that we just  
 11 looked at and marked as Exhibit 134?  
 12 A. That's -- I think that's right.  
 13 Q. Do you know if that letter was left under  
 14 people's doors, slid under the members of the Senate's  
 15 doors?  
 16 MR. FREDERICK: Objection; relevance. You  
 17 may answer.  
 18 A. I'm not -- I'm not aware if it was slipped under  
 19 doors. If a member had gone home early and that was the  
 20 only way to get it there, I'm sure the messengers put it  
 21 either in their mailbox or under their door.  
 22 Q. BY MS. MARANZANO: Do you know if when you say  
 23 "if a member had left early," do you know if the Senate  
 24 had suspended its business for the weekend?  
 25 A. I don't recall. But judging from her letter, she

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1 says that -- it looks like it was towards the end of the  
 2 week and they had finished working on the floor for that  
 3 week.  
 4 Q. Who from the Lieutenant Governor's office would  
 5 have handled distribution of the letter? And just to be  
 6 clear, I don't mean the actual delivery, but the  
 7 decision to distribute it on that day.  
 8 A. The actual decision would be the Lieutenant  
 9 Governor's.  
 10 Q. And certainly he would have been aware of whether  
 11 or not the Senate had suspended their business for the  
 12 weekend, wouldn't he?  
 13 MR. FREDERICK: Objection; assumes facts not  
 14 in evidence. You may answer.  
 15 A. If they had gavelled out earlier that week, yes.  
 16 Q. BY MS. MARANZANO: Okay. Were there any concerns  
 17 that distributing a letter about Senate bill 14 being  
 18 considered four days later could be perceived as  
 19 attempting to exclude people from the debate?  
 20 MR. FREDERICK: Objection; legislative  
 21 privilege. Instruct you not to answer.  
 22 BY MS. MARANZANO:  
 23 Q. What was the purpose of only giving four days  
 24 notice before consideration of Senate bill 14?  
 25 MR. FREDERICK: Objection; legislative

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1 privilege. Instruct you not to answer.  
 2 BY MS. MARANZANO:  
 3 Q. Was the Lieutenant Governor aware that Senators  
 4 had expressed concerns about Senate bill 14?  
 5 MR. FREDERICK: Objection; legislative  
 6 privilege. Instruct you not to answer.  
 7 BY MS. MARANZANO:  
 8 Q. Wouldn't it be important to ensure that Senators  
 9 had a chance to voice their opinions during a debate  
 10 like Senate bill 14?  
 11 MR. FREDERICK: Objection; argumentative.  
 12 Objection; relevance, but you may answer.  
 13 A. Yes.  
 14 Q. BY MS. MARANZANO: And do you know if the  
 15 Lieutenant Governor was aware that certain Senators had  
 16 concerns about the impacts Senate bill 14 might have on  
 17 voters?  
 18 MR. FREDERICK: Objection; legislative  
 19 privilege. Instruct you not to answer.  
 20 MS. MARANZANO: Mr. Frederick, can he answer  
 21 the yes or no question of whether or not he was aware of  
 22 that?  
 23 MR. FREDERICK: I believe that the question  
 24 itself implies what he was aware of. So it presumes the  
 25 substance of his mental -- his thought process. So I

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1 would stand by the objection.  
 2 BY MS. MARANZANO:  
 3 Q. Okay. And you're following your counsel's  
 4 instruction?  
 5 A. Yes.  
 6 Q. Are you familiar with the procedure by which  
 7 Senate bill 14 was considered in the Senate?  
 8 A. In 2011?  
 9 Q. Yes.  
 10 A. Yes.  
 11 Q. And are you aware of whether there was any change  
 12 in the rules that the Senate traditionally uses when it  
 13 considered Senate bill 14?  
 14 A. Yes. I believe they use the same rule process  
 15 that they did -- I think they use the same rule process  
 16 in 2009.  
 17 Q. And what rule process are you referring to?  
 18 A. The special order.  
 19 Q. Uh-huh. And can you describe what that is for  
 20 me?  
 21 A. I may not have the exact terms, but it's  
 22 generically -- it basically puts -- a bill that's in the  
 23 special order does not have a blocker bill that would  
 24 require two-thirds vote to suspend to go to that bill.  
 25 So it's inside the Senate rules, but it's an order of

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1 its own that has no blocker bill.  
 2 Q. Okay. I'm going to show you --  
 3 MS. MARANZANO: Let's mark this as  
 4 Exhibit 136.  
 5 (Exhibit No. 136 was marked.)  
 6 BY MS. MARANZANO:  
 7 Q. I'm showing you what we're marking as Deposition  
 8 Exhibit 136. And if you can turn to the second page.  
 9 Does this look to be the Senate rule that we were just  
 10 talking about, rule 5.11?  
 11 A. Yes.  
 12 Q. And can you direct your attention to  
 13 subsection D?  
 14 A. Yes.  
 15 Q. Do you see that there's a special -- a special  
 16 carve-out that says, "notwithstanding subsection A of  
 17 this rule a bill of resolution relating to voter  
 18 identification requirements reported favorably from a  
 19 Committee of the Whole Senate may be set as a special  
 20 order for a time at least 24 hours after the motion is  
 21 adopted by the majority of the Senate; is that correct?  
 22 A. Yes.  
 23 Q. So in other words, if the voter identification  
 24 bill was voted favorably out of the  
 25 Committee-of-the-Whole, it could be considered if it was

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1 just voted by a majority of the members; is that right?  
 2 A. Yes.  
 3 Q. And as a usual matter, is that different than the  
 4 way the Senate considers legislation?  
 5 A. It is a special order that is different than the  
 6 normal order of business that's used on other  
 7 legislation.  
 8 Q. And other legislation is usually voted by  
 9 two-thirds majority; is that correct?  
 10 A. If there's a blocker bill in place.  
 11 Q. Have you ever seen another time when a category  
 12 of legislation is carved out at the two-thirds rule as a  
 13 voter identification requirements in subsection D?  
 14 A. Yes. The entire special session was done without  
 15 a blocker bill.  
 16 Q. And what special session are you referring to?  
 17 A. June of 2011, right after the last legislative  
 18 session.  
 19 Q. So in other words, no legislation during the  
 20 special session was passed with a two-thirds majority?  
 21 A. Something might have passed with more than  
 22 two-thirds of the vote. But there was not a blocker  
 23 bill in place for the whole special session.  
 24 Q. Okay. So let me rephrase. Nothing was required  
 25 to be passed with a two-thirds majority during the

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1 special session; is that correct?  
 2 A. As long as -- so long as it was the first bill in  
 3 order of the -- on the calendar. There was no blocker  
 4 bill in place.  
 5 Q. Okay. So the usual order of business was not  
 6 that it had to be passed by two-thirds majority vote?  
 7 MR. FREDERICK: Object to the form of the  
 8 question. You can answer.  
 9 A. Yes. I don't think --  
 10 Q. BY MS. MARANZANO: What?  
 11 A. I'm not sure I understand.  
 12 Q. Okay. Can you just explain to me what happened  
 13 during the special session in June 2011 and how that  
 14 differs from what would happen -- what usually happens  
 15 in other sessions.  
 16 A. In a normal session the -- there is a bill -- a  
 17 blocker bill that's first on the calendar. And so in  
 18 the Senate's rules if you want to -- if you want to pass  
 19 that bill first it only requires a majority vote. So  
 20 whatever bill is first on the calendar is only a  
 21 majority. If you say we're going to move out past the  
 22 first bill to some other bill on the calendar, that's  
 23 when you do a two-thirds rule. In a special order and  
 24 in the special session there was basically no -- there  
 25 was -- there is no blocker bill in the special order and

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1 there is no blocker bill -- or there was no blocker bill  
 2 during the 2011 special session. So all those bills --  
 3 I think all of them were probably just a majority, but  
 4 there might have been one or two that every one agreed  
 5 upon?  
 6 Q. And how many pieces of legislation were passed in  
 7 the June 2011 special session?  
 8 A. Approximately? Five or six.  
 9 Q. And am I understanding you correctly that there  
 10 wasn't a special carve-out during that session. There  
 11 was just no blocker bill?  
 12 A. Yes. So you're right.  
 13 Q. What do you think the purpose of the two-thirds  
 14 rule is?  
 15 MR. FREDERICK: Object on relevance. But  
 16 you can answer.  
 17 A. The purpose -- traditionally the purpose has been  
 18 to make people that are working in good faith to  
 19 compromise to get at least two-thirds of the members of  
 20 the Senate to agree to a compromise.  
 21 Q. BY MS. MARANZANO: Do you think it's effective at  
 22 doing that?  
 23 MR. FREDERICK: Objection; relevance, but  
 24 you may answer.  
 25 A. It depends.

<p style="text-align: center;">105</p> <p>1 Q. BY MS. MARANZANO: What do you mean by that?</p> <p>2 A. I mean, bills that didn't pass it was not</p> <p>3 effected, but ones that do it does -- if does make</p> <p>4 people negotiate, usually.</p> <p>5 Q. So in other words, if people aren't able to</p> <p>6 compromise, a bill wouldn't pass without the two-thirds</p> <p>7 majority?</p> <p>8 A. That's right.</p> <p>9 Q. Did the Lieutenant Governor request that the</p> <p>10 two-thirds rule be suspended for Senate bill 14?</p> <p>11 MR. FREDERICK: Objection; privileged.</p> <p>12 Instruct you not to answer.</p> <p>13 BY MS. MARANZANO:</p> <p>14 Q. You're following your counsel's instruction?</p> <p>15 A. Yes.</p> <p>16 Q. Did the Lieutenant Governor have any</p> <p>17 communications with anyone about the suspension of the</p> <p>18 two-thirds rule?</p> <p>19 MR. FREDERICK: Object on the legislative</p> <p>20 privilege only to caution you not to reveal the</p> <p>21 substance of any communication, but as to the existence</p> <p>22 of the communication you may answer that.</p> <p>23 A. Yes. He had -- he had conversations about it.</p> <p>24 Q. BY MS. MARANZANO: And who were those</p> <p>25 conversations with?</p>	<p style="text-align: center;">107</p> <p>1 Q. And why would that have required him to talk to</p> <p>2 the parliamentarian?</p> <p>3 A. The parliamentarian is the keeper of the rules.</p> <p>4 So she's the one that works with him. Whether it's this</p> <p>5 rule or any other rule. I believe this particular</p> <p>6 special order, I think it was adopted -- I didn't</p> <p>7 participate in it, but I think it was adopted just like</p> <p>8 this in 2009.</p> <p>9 Q. Uh-huh.</p> <p>10 A. And then adopted the exact same way in 2011. But</p> <p>11 the parliamentarian is responsible for making sure that</p> <p>12 any rule changes are distributed and given to members so</p> <p>13 they can discuss them and she would talk to the</p> <p>14 Lieutenant Governor about it.</p> <p>15 Q. Are you familiar with the circumstances under</p> <p>16 which this similar rule that you're referring to was</p> <p>17 adopted in 2009?</p> <p>18 A. No. I just know that -- I know that the</p> <p>19 discussion was -- the big discussion in public debate on</p> <p>20 that was in 2009.</p> <p>21 Q. Are you familiar with that public debate?</p> <p>22 A. No. Not detail. I know it happened.</p> <p>23 Q. Was the Lieutenant Governor presiding over that</p> <p>24 debate?</p> <p>25 A. I don't recall, but I would say yes. I'm pretty</p>
<p style="text-align: center;">106</p> <p>1 A. Members of the Senate that were working on the</p> <p>2 bill. Probably -- particularly Senator Fraser.</p> <p>3 Q. Anyone else?</p> <p>4 A. I'm sure there was. But I'm not...</p> <p>5 Q. You're not -- you're not aware whether there were</p> <p>6 or there weren't?</p> <p>7 A. I'm sure there were, but I just couldn't point to</p> <p>8 specific conversations.</p> <p>9 Q. Do you know if the Lieutenant Governor or others</p> <p>10 in his office had any conversations with individuals --</p> <p>11 with Senators who were opposed to Senate bill 14 about</p> <p>12 the suspension of the two-thirds rule?</p> <p>13 A. Yes.</p> <p>14 Q. And who were those people?</p> <p>15 A. The members that were opposed to it. I'm sure he</p> <p>16 didn't talk to all of them, but I would be surprised if</p> <p>17 he didn't talk to different members on the floor or</p> <p>18 during this process about the whole issue.</p> <p>19 Q. But you don't have specific testimony about who</p> <p>20 particularly he talked to who was opposed to the bill?</p> <p>21 A. I don't.</p> <p>22 Q. Did he talk to the parliamentarian about the</p> <p>23 suspension of the two-thirds rule?</p> <p>24 A. He would have had to because it's in the rules</p> <p>25 that they have to adopt at the beginning of session.</p>	<p style="text-align: center;">108</p> <p>1 sure it was yes, but I don't recall personally.</p> <p>2 Q. Okay. Does the special order rule, 5.11, that</p> <p>3 prevents the use of blocker bills to slow down</p> <p>4 legislation; is that correct?</p> <p>5 MR. FREDERICK: Object to the</p> <p>6 characterization. You may answer it.</p> <p>7 A. It -- it doesn't -- I'm not sure the words you</p> <p>8 used. But it -- it is -- it's definitely a special</p> <p>9 order that would put a bill that has been blocked by the</p> <p>10 two-thirds bill on its own special order.</p> <p>11 Q. BY MS. MARANZANO: And the carve-out is only for</p> <p>12 the voter identification -- for voter identification</p> <p>13 requirements; is that correct?</p> <p>14 A. In this rule, yes.</p> <p>15 Q. And other than the June session have you ever</p> <p>16 seen -- and I think you testified that the June session</p> <p>17 was not a carve-out, but just a different set of rules</p> <p>18 governed; is that correct?</p> <p>19 A. Yes.</p> <p>20 Q. Have you ever seen another category of</p> <p>21 legislation categorically carved out as the voter</p> <p>22 identification requirements are?</p> <p>23 A. No.</p> <p>24 Q. Did the Lieutenant Governor have any concerns</p> <p>25 about suspending the two-thirds rule for this</p>

<p style="text-align: center;">109</p> <p>1 legislation?</p> <p>2 MR. FREDERICK: Objection; legislative</p> <p>3 privilege. Instruct you not to answer.</p> <p>4 BY MS. MARANZANO:</p> <p>5 Q. Were there any communications that you or others</p> <p>6 in your office had about whether carving out voter</p> <p>7 identification requirements from the two-thirds rule</p> <p>8 would make it appear particularly partisan in nature?</p> <p>9 MR. FREDERICK: Object to that on the basis</p> <p>10 of privilege. Instruct you not to answer.</p> <p>11 BY MS. MARANZANO:</p> <p>12 Q. Are you following your counsel's instructions?</p> <p>13 A. Yes.</p> <p>14 Q. Do the Senators needs to dispense with the</p> <p>15 two-thirds rule in order to pass Senate bill 14?</p> <p>16 MR. FREDERICK: Objection. Objection;</p> <p>17 relevance. Objection calls for speculation. Also</p> <p>18 object on the basis of privilege to the extent this</p> <p>19 would require you to reveal the Lieutenant Governor's</p> <p>20 thought process, mental impressions or any</p> <p>21 communications with other members of the Senate. On</p> <p>22 that basis, I would instruct you not to answer.</p> <p>23 BY MS. MARANZANO:</p> <p>24 Q. Are you following your counsel's instructions?</p> <p>25 A. Yes.</p>	<p style="text-align: center;">111</p> <p>1 14 passed?</p> <p>2 A. As much as its his role that any bill pass.</p> <p>3 Q. And I believe you testified earlier that this was</p> <p>4 a particular priority for him?</p> <p>5 MR. FREDERICK: Object. Mischaracterizes</p> <p>6 prior testimony. You can answer.</p> <p>7 BY MS. MARANZANO:</p> <p>8 Q. Did -- did you not say that, Mr. Brunson?</p> <p>9 A. I said that it was -- it does definitely one of</p> <p>10 the issues that -- that he felt we needed to address</p> <p>11 last session -- in the 2011 session.</p> <p>12 Q. So because he thought it was something that</p> <p>13 needed to be addressed, would he play any larger role in</p> <p>14 trying to get the bill passed?</p> <p>15 A. I would say the same role he would play on any</p> <p>16 bill that needed to pass. He -- if it's something that</p> <p>17 needs to be -- if it needs to be passed, he would take</p> <p>18 the same action on this bill or any other bill. I don't</p> <p>19 think this was a -- that uniquely different of a bill as</p> <p>20 far as priority, if you want to call it that. But I</p> <p>21 think he laid out a -- they laid out a process that</p> <p>22 resulted in the bill passing.</p> <p>23 Q. So how does he determine what bills need to be</p> <p>24 passed?</p> <p>25 MR. FREDERICK: Object on the basis of</p>
<p style="text-align: center;">110</p> <p>1 Q. Did Senate bill 14 pass with two-thirds majority</p> <p>2 support?</p> <p>3 A. No, it did not.</p> <p>4 Q. Was there any consideration given to changing any</p> <p>5 other rules for voter identification requirements?</p> <p>6 A. Not that I'm aware of.</p> <p>7 Q. What was the Lieutenant Governor's role --</p> <p>8 actually, strike that. What was the Lieutenant</p> <p>9 Governor's role during the consideration of the</p> <p>10 Committee-of-the-Whole -- Committee-of-the-Whole's</p> <p>11 consideration of Senate bill 14?</p> <p>12 MR. FREDERICK: Objection. Asked and</p> <p>13 answered.</p> <p>14 A. Per the rules, participate in debate and vote as</p> <p>15 necessary.</p> <p>16 Q. BY MS. MARANZANO: Right. But I'm asking you</p> <p>17 specifically what did he do, not just sort of what he</p> <p>18 has the ability to do, but what did he actually do?</p> <p>19 A. If I remember correctly he sat in the Senate area</p> <p>20 and listened to the debate.</p> <p>21 Q. Did he play any role in talking to other members</p> <p>22 about how they were going to vote on the bill?</p> <p>23 A. I'm sure he talked to members during the debate</p> <p>24 is. I don't know if it changed anyone's vote or not.</p> <p>25 Q. Was it part of his role to make sure Senate bill</p>	<p style="text-align: center;">112</p> <p>1 privilege. I don't -- as I understand the question, I</p> <p>2 don't believe that it's actually seeking the Lieutenant</p> <p>3 Governor's thought process, but I would caution you not</p> <p>4 to reveal his actual thought process about determining</p> <p>5 whether any specific bill needed to pass. If you can</p> <p>6 describe the general thought processes, I think that's</p> <p>7 what she's asking, you can answer that.</p> <p>8 A. I think in -- in general terms, I think it would</p> <p>9 be -- I don't know what you would call it. An instinct</p> <p>10 or common sense. It's a bill that had passed or had</p> <p>11 been discussed and had had a lot of attention for</p> <p>12 several sessions. And so -- and I'm sure in his mind</p> <p>13 the -- I don't know. I can't say what's in his mind.</p> <p>14 But I'm sure -- I'm sure that just the common sense of,</p> <p>15 you know, the publicity and the focus on the bill is</p> <p>16 something that he said this is something that</p> <p>17 ultimate -- that the members want to work on and we'll</p> <p>18 work on it.</p> <p>19 Q. BY MS. MARANZANO: Is it fair to say only some</p> <p>20 members wanted to --</p> <p>21 A. A majority of the members.</p> <p>22 Q. Does he consider which political party the</p> <p>23 members are from when he's deciding how to move a bill</p> <p>24 through the Legislature?</p> <p>25 A. He takes lots of factors into consideration when</p>

<p style="text-align: center;">113</p> <p>1 he works on bills.</p> <p>2 Q. Can you tell me what those factors are?</p> <p>3 A. Not specifically. I mean, it depends on the</p> <p>4 bill. Like the budget needs to pass so that the State</p> <p>5 can finance the different things that work, that the</p> <p>6 State pays for and every member of the Legislature</p> <p>7 regardless of party has roads and schools, et cetera.</p> <p>8 And so the factors are when you look at the issues that</p> <p>9 need to be worked on to make the State run, I think he</p> <p>10 takes all those factors into account.</p> <p>11 Q. So I guess -- I guess what I'm trying to figure</p> <p>12 out is what about Senate bill 14 was addressing</p> <p>13 something that needed to be worked on?</p> <p>14 MR. FREDERICK: I'll object on the basis of</p> <p>15 legislative privilege to the extent this calls for the</p> <p>16 Lieutenant Governor's thought process about Senate bill</p> <p>17 14 and instruct you not to answer.</p> <p>18 BY MS. MARANZANO:</p> <p>19 Q. Do you -- do you have an answer or are you able</p> <p>20 to answer at all?</p> <p>21 A. No.</p> <p>22 Q. And I think you earlier testified that your role</p> <p>23 with regard to Senate bill 14 was helping move it</p> <p>24 through process?</p> <p>25 A. Right.</p>	<p style="text-align: center;">115</p> <p>1 A. Yes.</p> <p>2 Q. Are you aware of concerns that were raised about</p> <p>3 the impact Senate bill 14 would have on minority voters</p> <p>4 that were raised during the consideration of the bill by</p> <p>5 the Committee-of-the-Whole?</p> <p>6 A. I definitely know they were raised. I don't know</p> <p>7 the specifics of what the concerns were.</p> <p>8 Q. Did the Lieutenant Governor make any attempt to</p> <p>9 respond to those concerns?</p> <p>10 MR. FREDERICK: Object on the basis of</p> <p>11 legislative privilege. To the extent that calls for the</p> <p>12 Lieutenant Governor's thought process, communications</p> <p>13 with his staff or other legislators or any investigation</p> <p>14 that was done by his office, I would instruct you not to</p> <p>15 answer on the basis of legislative privilege.</p> <p>16 BY MS. MARANZANO:</p> <p>17 Q. Do you have any answer?</p> <p>18 A. I don't.</p> <p>19 Q. Do you know -- well, are you familiar with the</p> <p>20 record from the Committee-of-the-Whole's consideration</p> <p>21 of Senate bill 14?</p> <p>22 A. There is a record. As far as the specifics of</p> <p>23 the record?</p> <p>24 Q. Uh-huh.</p> <p>25 A. No.</p>
<p style="text-align: center;">114</p> <p>1 Q. And so what -- so can you tell me specifically</p> <p>2 what you did to move Senate bill 14 through the process?</p> <p>3 A. Well, it was -- my role specifically whether</p> <p>4 Senate bill 14 or any of the bills that were more of a</p> <p>5 priority than others was just to make sure that the bill</p> <p>6 sponsor had the resources, had the bill language ready,</p> <p>7 if our policy people needed help in areas like on the</p> <p>8 budget, if our people needed to pitch in and help to get</p> <p>9 the bills ready to either come out of committee or go to</p> <p>10 the floor, and then the timing of, generically, just the</p> <p>11 timing of how bills would flow so that -- it was a big</p> <p>12 session with a big budget deficit. So just making sure</p> <p>13 that things were in place to do bills in a timely</p> <p>14 manner.</p> <p>15 Q. Did you have a role in determining when Senate</p> <p>16 bill 14 would be considered?</p> <p>17 A. Just an advisory role with the Lieutenant</p> <p>18 Governor.</p> <p>19 Q. Did you advise Lieutenant Governor to bring it up</p> <p>20 quickly at the beginning of the session?</p> <p>21 MR. FREDERICK: Objection; legislative</p> <p>22 privilege. Instruct you not to answer.</p> <p>23 BY MS. MARANZANO:</p> <p>24 Q. And the decision of when to actually bring the</p> <p>25 bill up was the Lieutenant Governor's; is that correct?</p>	<p style="text-align: center;">116</p> <p>1 Q. Not at all?</p> <p>2 A. No.</p> <p>3 Q. You testified earlier that one of the reasons it</p> <p>4 was important the pass Senate bill 14 is because a</p> <p>5 similar -- or another voter identification bill had</p> <p>6 passed the Senate in 2009. Is that a correct</p> <p>7 restatement of your testimony?</p> <p>8 A. Yes.</p> <p>9 Q. Do you know if Senate bill 14 is similar to the</p> <p>10 bill that had passed in the 2009 legislative session?</p> <p>11 A. I'm not sure how similar they are. I think -- I</p> <p>12 think they're fairly similar.</p> <p>13 Q. What are you basing that testimony on?</p> <p>14 A. That it was generally the same Senate body that</p> <p>15 passed it in '09 and '11.</p> <p>16 Q. Did you look at -- did you ever look at the text</p> <p>17 of the bill that passed the 2009 legislative session?</p> <p>18 A. I may have -- I mean, I may have looked at it. I</p> <p>19 never studied it.</p> <p>20 Q. Do you know if the forms of identification that</p> <p>21 are required under the bill that passed in the 2009</p> <p>22 legislative session are the same as what passed in the</p> <p>23 2011 legislative session?</p> <p>24 A. I don't know.</p> <p>25 Q. You testified earlier that the Lieutenant</p>

<p style="text-align: center;">117</p> <p>1 Governor voted on Senate bill 14, correct?</p> <p>2 A. I said I wasn't sure if he did.</p> <p>3 Q. Okay. Do you believe he voted or you're not</p> <p>4 sure?</p> <p>5 A. I don't know.</p> <p>6 Q. If he voted it would have been in the</p> <p>7 Committee-of-the-Whole; is that correct?</p> <p>8 A. Yes.</p> <p>9 Q. Did you make any recommendation to the Lieutenant</p> <p>10 Governor on whether or not to vote on Senate bill 14?</p> <p>11 MR. FREDERICK: Object on the basis of</p> <p>12 legislative privilege only to the extent it seeks the</p> <p>13 substance of your recommendation. As to the question</p> <p>14 whether or not you made a recommendation, you can answer</p> <p>15 that.</p> <p>16 A. I don't know. I don't think I did.</p> <p>17 Q. BY MS. MARANZANO: Did you make a recommendation</p> <p>18 to the Lieutenant Governor about whether or not to</p> <p>19 support SB 14?</p> <p>20 MR. FREDERICK: Same objection and</p> <p>21 instruction.</p> <p>22 A. No.</p> <p>23 Q. BY MS. MARANZANO: Did the Lieutenant Governor</p> <p>24 play any role in the -- in the process by which</p> <p>25 amendments were introduced to Senate bill 14?</p>	<p style="text-align: center;">119</p> <p>1 A. Yes, ma'am.</p> <p>2 Q. And was Senate bill 14 already -- had it already</p> <p>3 passed the Senate at that time?</p> <p>4 A. Based on this statement I would say yes.</p> <p>5 Q. The press release is issuing a statement about</p> <p>6 the passage of the Senate; is that correct?</p> <p>7 A. Yes.</p> <p>8 Q. Is it unusual for a piece of legislation to pass</p> <p>9 the Senate in the first two weeks of the session?</p> <p>10 A. Not if it's on the emergency call.</p> <p>11 Q. Has that happened before?</p> <p>12 A. Yes.</p> <p>13 Q. How many times?</p> <p>14 A. I don't know how many times. But it's -- that's</p> <p>15 the reason there is an emergency call is so that bills</p> <p>16 can be heard in first 60 days in the session?</p> <p>17 Q. Can you tell me about other legislation that you</p> <p>18 do know about that's passed in the first two weeks of</p> <p>19 the legislative session?</p> <p>20 A. I don't have any -- any examples.</p> <p>21 Q. Okay. But it's your understanding that that</p> <p>22 happens?</p> <p>23 A. It has -- I think your question was has it ever</p> <p>24 happened. I'm sure it has.</p> <p>25 Q. Is it unusual?</p>
<p style="text-align: center;">118</p> <p>1 A. I don't recall.</p> <p>2 Q. Are you familiar with the amendments that were</p> <p>3 introduced to Senate bill 14?</p> <p>4 A. No. No.</p> <p>5 Q. Did the Lieutenant Governor draft any amendments</p> <p>6 to be added to Senate bill 14?</p> <p>7 A. Not they I'm aware of.</p> <p>8 Q. And who would know the answer to that?</p> <p>9 A. Probably Brian Hebert or Julia.</p> <p>10 (Exhibit No. 111 was marked)</p> <p>11 Q. (By Ms. Maranzano) I'm going to show you -- I'm</p> <p>12 showing you what we have previously marked as Deposition</p> <p>13 Exhibit 111. Can you take a look at this and tell me if</p> <p>14 you recognize it?</p> <p>15 A. I do.</p> <p>16 Q. And what is this?</p> <p>17 A. It's a press release from the Lieutenant</p> <p>18 Governor's office.</p> <p>19 Q. Have you seen this before?</p> <p>20 A. Yes.</p> <p>21 Q. Who drafts the press releases for the Lieutenant</p> <p>22 Governor?</p> <p>23 A. Mike -- Mike Walz.</p> <p>24 Q. And can you tell me, do you see at the top</p> <p>25 left-hand side it's dated January 26, 2011?</p>	<p style="text-align: center;">120</p> <p>1 A. It would probably be -- yes, it's unusual.</p> <p>2 Q. Can you look at the last sentence in this</p> <p>3 statement. It says, "voter ID will help stamp out voter</p> <p>4 fraud and increase confidence in our election process by</p> <p>5 insuring only US citizens who are legally eligible vote</p> <p>6 in Texas elections." Can you tell me if Senate bill 14</p> <p>7 is about ensuring that non-citizens don't participate in</p> <p>8 elections?</p> <p>9 A. I don't -- I don't know the answer to that.</p> <p>10 Q. Who would know the answer to that?</p> <p>11 A. Brian Hebert or Julia.</p> <p>12 Q. Would the Lieutenant Governor?</p> <p>13 A. I don't know.</p> <p>14 Q. Well, how would Senate bill 14 prevent</p> <p>15 non-citizens from voting?</p> <p>16 A. I don't know.</p> <p>17 Q. Do you know if the Lieutenant Governor -- the</p> <p>18 Lieutenant Governor's position on Senate bill 14 was</p> <p>19 connected to a belief about only US citizens should be</p> <p>20 able to participate in elections?</p> <p>21 MR. FREDERICK: Going to object only to the</p> <p>22 extent that this would call for privileged, confidential</p> <p>23 communication between you and the Lieutenant Governor or</p> <p>24 his thought process, mental impressions obviously that</p> <p>25 weren't expressed in the public. But you can answer if</p>

<p style="text-align: center;">121</p> <p>1 you can do so.</p> <p>2 A. I don't know the answer.</p> <p>3 Q. BY MS. MARANZANO: Did you ever talk to the</p> <p>4 Lieutenant Governor about the basis for his support for</p> <p>5 Senate bill 14?</p> <p>6 A. No. Most of the debate we were working on</p> <p>7 happened in the previous session before I started</p> <p>8 working on it. So I think by the time we got to 2011 he</p> <p>9 was where he was and there wasn't a whole lot of</p> <p>10 discussing about why he was doing what on the bill.</p> <p>11 Q. Who would be familiar with the basis for his</p> <p>12 support of Senate bill 14?</p> <p>13 A. Probably -- probably Brian or Julia.</p> <p>14 Q. Brian Hebert or Julia Rathgeber or the Lieutenant</p> <p>15 Governor?</p> <p>16 A. Yeah. Yeah.</p> <p>17 Q. Did you -- did you monitor the bill after it</p> <p>18 passed the Senate?</p> <p>19 A. I didn't watch -- I didn't watch it on a daily</p> <p>20 basis. But we did -- we did monitor it to make sure</p> <p>21 that it was still moving in the House.</p> <p>22 Q. Are you familiar with changes that occurred to</p> <p>23 the bill in the House?</p> <p>24 A. No.</p> <p>25 Q. Did you play a role in picking the conferees for</p>	<p style="text-align: center;">123</p> <p>1 bill 14?</p> <p>2 A. Yes. As far as the...</p> <p>3 Q. Do you know how the fiscal note for the bill was</p> <p>4 arrived at?</p> <p>5 A. I don't.</p> <p>6 Q. Do you recall, I think you testified previously</p> <p>7 to an approximate amount that you believed the fiscal</p> <p>8 note in 2009 had -- the approximate amount of the fiscal</p> <p>9 note in 2009?</p> <p>10 A. Right.</p> <p>11 Q. Do you remember exactly what that was?</p> <p>12 A. I think it was \$2 or \$3 million.</p> <p>13 Q. Do you know what the fiscal note for the bill in</p> <p>14 Senate bill 14 was?</p> <p>15 A. I think it's about the same, \$2 or \$3 million.</p> <p>16 Q. And is it your understanding -- well, what is</p> <p>17 your understanding of what that amount of money will be</p> <p>18 used for?</p> <p>19 A. I believe for like signage and voter education at</p> <p>20 the polling places.</p> <p>21 MS. MARANZANO: Can you mark this?</p> <p>22 (Exhibit No. 137 was marked.)</p> <p>23 BY MS. MARANZANO:</p> <p>24 Q. Do you recognize this? I'm showing you what</p> <p>25 we're marking as Deposition Exhibit 137. Can you take a</p>
<p style="text-align: center;">122</p> <p>1 Senate bill 14?</p> <p>2 A. I don't recall any of the specifics. But the</p> <p>3 Senate would have turned in the vote card or the</p> <p>4 conferee request card that I probably -- I probably</p> <p>5 would have had it and given to the Lieutenant Governor</p> <p>6 or either Julia or I would have...</p> <p>7 Q. So did you play any substantive role in picking</p> <p>8 the conferees?</p> <p>9 A. No. No.</p> <p>10 Q. Are you familiar with changes that occurred to</p> <p>11 Senate bill 14 during the conference Committee?</p> <p>12 A. No.</p> <p>13 Q. Not at all?</p> <p>14 A. No.</p> <p>15 Q. And who would be familiar with those?</p> <p>16 A. Brian or Julia.</p> <p>17 Q. Or the Lieutenant Governor?</p> <p>18 A. Possibly. I know Brian and Julia would. Brian</p> <p>19 in particular.</p> <p>20 Q. Did you -- did you work on or monitor -- well, I</p> <p>21 guess monitor would be a more appropriate, a fiscal note</p> <p>22 that was attached to Senate bill 14?</p> <p>23 A. I didn't do anything specific with the fiscal</p> <p>24 note.</p> <p>25 Q. Are you familiar with the fiscal note for Senate</p>	<p style="text-align: center;">124</p> <p>1 look and tell me if you recognize it?</p> <p>2 A. It's the fiscal note for Senate bill 14 as it</p> <p>3 passed the second House.</p> <p>4 Q. And it looks to me like the fiscal note was a</p> <p>5 little bit over \$2 million; is that correct?</p> <p>6 A. That's what it looks like. Yes.</p> <p>7 Q. And if you can turn to Page 3 -- Page 3 under</p> <p>8 Methodology, it describes how that fiscal note was</p> <p>9 arrived at. Do you see that?</p> <p>10 A. Yes.</p> <p>11 Q. And based on that, is it your understanding that</p> <p>12 the fiscal note is geared towards public education</p> <p>13 primarily in the form of media advertisements,</p> <p>14 television, radio, internet?</p> <p>15 A. It looks like a million and a half of it is.</p> <p>16 Q. A million and half or \$2 million?</p> <p>17 A. A million and a half for media and a half a</p> <p>18 million for research.</p> <p>19 Q. Research about the media, correct?</p> <p>20 A. Yes.</p> <p>21 Q. Based on your budget experience, can you tell me</p> <p>22 why there isn't an inclusion in this fiscal note for the</p> <p>23 cost of the free ID that is a part of Senate bill 14?</p> <p>24 A. I think DPS testified at the -- at the -- I</p> <p>25 believe at the Committee-of-the-Whole that the -- since</p>

<p style="text-align: center;">125</p> <p>1 it would be, I guess such as small number of free IDs</p> <p>2 that it could be absorbed in their budget.</p> <p>3 Q. And how did they know there was going to be a</p> <p>4 small number of free IDs?</p> <p>5 A. I don't know.</p> <p>6 Q. Okay. Did they perform any analysis on who would</p> <p>7 need a free ID?</p> <p>8 A. I don't know. I'm assuming yes, but I don't</p> <p>9 know.</p> <p>10 Q. And why would you assume yes?</p> <p>11 A. That's their job.</p> <p>12 Q. You're not familiar with whether it occurred or</p> <p>13 not?</p> <p>14 A. No.</p> <p>15 Q. Who would know that?</p> <p>16 A. Probably the -- either the Legislative Budget</p> <p>17 Board who prepared the fiscal note and Brian Hebert</p> <p>18 might know.</p> <p>19 Q. Do you believe that this \$2 million cost for</p> <p>20 media would be sufficient to educate the public in Texas</p> <p>21 about the requirements of Senate bill 14?</p> <p>22 A. I can only rely on the -- whoever put this</p> <p>23 together. I don't have any personal reason to think</p> <p>24 otherwise.</p> <p>25 Q. How many media markets are in Texas?</p>	<p style="text-align: center;">127</p> <p>1 associated with Help America Vote Act may be available</p> <p>2 for use, but the agency would first need to verify this</p> <p>3 with the federal government." Do you know if there was</p> <p>4 an attempt to ensure that the amount of money projected</p> <p>5 for the fiscal note would be equal to or less than the</p> <p>6 amount of money that Texas had at its disposal through</p> <p>7 highway funds?</p> <p>8 A. No. Not that I'm aware of.</p> <p>9 Q. And if that was the case would you be aware of</p> <p>10 it?</p> <p>11 A. Probably.</p> <p>12 Q. And why is that?</p> <p>13 A. Like we talked about earlier, the fiscal note</p> <p>14 process is intended to be separate and apart from the</p> <p>15 legislative process so it's not where people can push</p> <p>16 one way or the other to get a different outcome on cost.</p> <p>17 Q. Okay. So if there was an attempt to make sure</p> <p>18 that this amount of money matched with the HAVA funds</p> <p>19 that were available, you think you would know that?</p> <p>20 A. Yes. I think the Legislative Budget Board would</p> <p>21 have called me and said someone is trying to make us</p> <p>22 change our fiscal note.</p> <p>23 Q. I see. What if the Legislative Budget Boards --</p> <p>24 so in your opinion that directive would have come from</p> <p>25 somebody other than a member of the Legislative Budget</p>
<p style="text-align: center;">126</p> <p>1 A. I don't know.</p> <p>2 Q. Do you have any knowledge about how much it would</p> <p>3 cost for airtime on TV or radio?</p> <p>4 A. I'm sure -- statewide, I'm sure it's pretty</p> <p>5 expensive.</p> <p>6 Q. What -- what would pretty expensive mean?</p> <p>7 A. I'm sure it would -- I'm sure the estimates were</p> <p>8 made off of some -- I'm sure you could ask how they came</p> <p>9 up with the different amendments for the different</p> <p>10 medias. But I would assume that it's somewhere -- if</p> <p>11 you wanted to run some of -- some significant amount it</p> <p>12 would be around \$2 million.</p> <p>13 Q. In other bills that you've worked on that had any</p> <p>14 sort of public education -- are there other bills you</p> <p>15 have worked on that have had public education</p> <p>16 components?</p> <p>17 A. None that I can recall specifically. Just -- I</p> <p>18 can't think of any others.</p> <p>19 Q. Okay. So -- go ahead?</p> <p>20 A. Most State issues have -- usually have a public</p> <p>21 service announcement component that doesn't cost the</p> <p>22 State?</p> <p>23 Q. I see. Can you look at the last sentence of that</p> <p>24 first paragraph under Methodology? It says, "the</p> <p>25 Secretary of State indicates that federal funds</p>	<p style="text-align: center;">128</p> <p>1 Board?</p> <p>2 A. Which directive? To make it fit?</p> <p>3 Q. Uh-huh.</p> <p>4 A. I'm not aware of any directive like that.</p> <p>5 Q. Okay. Fair enough. Are you at all familiar with</p> <p>6 voter identification requirements that exist in Georgia?</p> <p>7 A. No.</p> <p>8 Q. How about voter identification requirements that</p> <p>9 exist in Indiana?</p> <p>10 A. No.</p> <p>11 Q. Have you heard of a case entitled Crawford?</p> <p>12 A. No.</p> <p>13 Q. No?</p> <p>14 A. No.</p> <p>15 Q. Why do you believe there was such strong</p> <p>16 opposition to Senate bill 14?</p> <p>17 MR. FREDERICK: Objection; calls for</p> <p>18 speculation. To the extent this calls for your personal</p> <p>19 opinion, I object. But I would object on the basis of</p> <p>20 privilege to the extent it seeks thought process, mental</p> <p>21 impressions or any communication between yourself and</p> <p>22 the Lieutenant Governor or another Legislature.</p> <p>23 A. So the question is why do I think there is such</p> <p>24 strong opposition?</p> <p>25 Q. BY MS. MARANZANO: Uh-huh.</p>

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1 A. I honestly don't know why the other side was  
 2 fighting so hard.  
 3 Q. What did they say they were fighting it so hard?  
 4 MR. FREDERICK: Object on the basis of  
 5 legislative privilege to the extent it call for  
 6 privilege communication from another Legislature.  
 7 However, to the extent you are aware of any statements  
 8 that were not privileged you may answer.  
 9 A. Yeah. The -- as far as like newspaper accounts,  
 10 the discussion from the Democrats in this case were that  
 11 it would suppress voter turnout -- or I guess voting  
 12 maybe just on their side. I don't know. I never did  
 13 understand why they were objecting to this.  
 14 Q. BY MS. MARANZANO: Do you think it would have  
 15 suppressed turnout?  
 16 A. I don't think so.  
 17 Q. Why not?  
 18 A. I personally don't. Because we have -- every one  
 19 of us that I can think -- during this process we even  
 20 talked about how many places you have to have a driver's  
 21 license to do anything these days. And so I really  
 22 think that it's so hard to do anything in today's world  
 23 without a photo ID that it couldn't -- I just don't see  
 24 how it would have affected -- negatively affected that  
 25 many people. And then with -- the way it was laid out.

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1 I just think it was a -- like I said, I don't know why  
 2 they fought it so hard.  
 3 Q. Did you ever undertake any analysis to determine  
 4 how it would affect people?  
 5 A. I personally did not.  
 6 Q. Did anybody?  
 7 A. I'm sure the normal analysis that would happen on  
 8 any bill happened on this. And Brian Hebert can talk to  
 9 you about --  
 10 Q. What is -- I'm sorry. What were you saying?  
 11 A. You can talk to him about what all analysis took  
 12 place.  
 13 Q. What is a normal analysis that gets done on a  
 14 bill?  
 15 A. It ranges from small bills to larger bills. You  
 16 spend the entire session working on the budget and all  
 17 that could be cast as analysis down to whatever amount  
 18 of due diligence needs to be done to have confidence  
 19 that you're doing the right thing it has to be done. So  
 20 bill by bill deal.  
 21 Q. Well, what do you think would have to be done to  
 22 give the Legislature they were doing the right thing in  
 23 regards to Senate bill 14?  
 24 MR. FREDERICK: Objection based on  
 25 relevance.

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1 A. I think it's a member by member deal.  
 2 Q. BY MS. MARANZANO: Are you aware of any analysis  
 3 that was conducted to determine whether minority voters  
 4 might be disproportionately less likely to possess the  
 5 identification forms of Senate bill 14?  
 6 MR. FREDERICK: Objection; the legislative  
 7 privilege and instruct you not to answer.  
 8 BY MS. MARANZANO:  
 9 Q. Is that something that you think might be  
 10 important to give a member confidence that they were  
 11 doing the right thing?  
 12 MR. FREDERICK: Objection; relevance. You  
 13 can answer.  
 14 A. I think each member has to decide for themselves  
 15 what level of analysis they need before they vote.  
 16 Q. BY MS. MARANZANO: Well, what level of analysis  
 17 did the Lieutenant Governor need before he voted?  
 18 MR. FREDERICK: Objection.  
 19 BY MS. MARANZANO:  
 20 Q. If he voted?  
 21 MR. FREDERICK: Objection; legislative  
 22 privilege. Instruct you not to answer. Also object as  
 23 vague.  
 24 BY MS. MARANZANO:  
 25 Q. When you said it's hard to do anything without an

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1 ID, what are you referring to?  
 2 A. The generic discussion has been to get on an  
 3 airplane or even most buildings that you have to have  
 4 some sort of ID that people can tell who you are and  
 5 when you present your identification. So if you want to  
 6 buy, you know, Sudafed in Texas you've got to have a  
 7 photo ID.  
 8 Q. Is it a right to get on an airplane?  
 9 MR. FREDERICK: Objection. Calls for legal  
 10 conclusion. You may answer.  
 11 A. I don't know.  
 12 Q. BY MS. MARANZANO: Well, I mean, would you  
 13 consider it to be a right to travel somewhere by plane?  
 14 MR. FREDERICK: Objection; relevance.  
 15 Objection; calls for legal conclusion. You can answer  
 16 if you can.  
 17 A. I don't think it's a legal right.  
 18 Q. BY MS. MARANZANO: Is it a legal right to buy  
 19 Sudafed?  
 20 MR. FREDERICK: Objection; calls for legal  
 21 conclusion.  
 22 A. I it's -- no, I don't think it's a legal right.  
 23 Q. BY MS. MARANZANO: Do you think it's a legal  
 24 right to be able to vote?  
 25 MR. FREDERICK: Objection; calls for legal

<p style="text-align: center;">133</p> <p>1 conclusion. Also objects on relevance. You can answer.</p> <p>2 A. I think it's a legal right to vote legally.</p> <p>3 Q. BY MS. MARANZANO: And do you think Senate bill</p> <p>4 14 is preventing people from voting illegally?</p> <p>5 MR. FREDERICK: Objection; relevance,</p> <p>6 objection -- I guess I'll just object on relevance and</p> <p>7 to the extent this is seeking your thoughts or the</p> <p>8 Lieutenant Governor's thoughts or mental impressions as</p> <p>9 to when Senate bill 14 was pending I would object on</p> <p>10 privilege. But I think you can answer if you can.</p> <p>11 A. What was the question?</p> <p>12 Q. BY MS. MARANZANO: You said that it was a</p> <p>13 legal -- you think it's a legal right to vote legally?</p> <p>14 A. Right.</p> <p>15 Q. So I'm asking you if Senate bill 14 prevents</p> <p>16 voting illegally?</p> <p>17 MR. FREDERICK: Same objection and</p> <p>18 instruction.</p> <p>19 A. I think it does help to ensure that you're voting</p> <p>20 legally, my personal opinion.</p> <p>21 Q. BY MS. MARANZANO: And what is your personal</p> <p>22 opinion based on, just how are you arriving at that</p> <p>23 conclusion?</p> <p>24 A. Based on the discussions that have taken place</p> <p>25 around this bill as -- from the time that I began</p>	<p style="text-align: center;">135</p> <p>1 A. I don't know.</p> <p>2 Q. BY MS. MARANZANO: Do you believe that other</p> <p>3 forms of identification other than the ones in Senate</p> <p>4 bill 14 verify somebody's identity?</p> <p>5 MR. FREDERICK: Objection; relevance.</p> <p>6 A. I don't know. I haven't thought about it.</p> <p>7 Q. BY MS. MARANZANO: Are you aware of any</p> <p>8 legislators making any statements about illegal aliens</p> <p>9 voting?</p> <p>10 MR. FREDERICK: Object based on privilege.</p> <p>11 To the extent this calls for non-public confidential</p> <p>12 statements made to your Lieutenant Governor by another</p> <p>13 legislator, those would be privileged and I would</p> <p>14 instruct you not to answer. To the extent you can</p> <p>15 answer based on non-privileged statements, you may do</p> <p>16 so.</p> <p>17 A. The answer is no.</p> <p>18 Q. BY MS. MARANZANO: And are you answering based</p> <p>19 on -- based on your counsel's instruction to only talk</p> <p>20 about statements on the public record; is that correct?</p> <p>21 A. I'm answering based on I've never heard anyone</p> <p>22 say anything like that.</p> <p>23 Q. Have you ever heard any Texas State legislator</p> <p>24 who voted in favor of Senate bill 14 say that it would</p> <p>25 prevent a legitimately registered voter from voting?</p>
<p style="text-align: center;">134</p> <p>1 focusing on it to now. I think we should do everything</p> <p>2 we can the make sure that that legal right is legal.</p> <p>3 Q. Is there -- what forms of illegal voting would</p> <p>4 Senate bill 14 prevent?</p> <p>5 A. Like I said earlier, we've talked about that, I</p> <p>6 don't know the specifics of the bill. But after the</p> <p>7 amount of testimony that's been taken on this and the</p> <p>8 discussion, if there's something that should and can be</p> <p>9 done, then if it prevents one vote that's not legal, I</p> <p>10 think that's -- I think it's the right thing to do.</p> <p>11 Q. Would you believe that it was the right thing to</p> <p>12 do if it prevented one vote that was illegal even if it</p> <p>13 disenfranchised a large number of individuals?</p> <p>14 MR. FREDERICK: Objection; relevance.</p> <p>15 Objection; calls for speculation.</p> <p>16 A. I don't know -- I don't have an opinion on that.</p> <p>17 Q. BY MS. MARANZANO: Is there any illegal voting</p> <p>18 other than in person voter impersonation that Senate</p> <p>19 bill 14 would prevent?</p> <p>20 A. I don't know. I don't think so.</p> <p>21 Q. Are there other forms of ID that could have been</p> <p>22 included in Senate bill 14 that would have also verified</p> <p>23 a voter's identity?</p> <p>24 MR. FREDERICK: Objection; calls for</p> <p>25 speculation. Object to relevance. But you can answer.</p>	<p style="text-align: center;">136</p> <p>1 MR. FREDERICK: Objection; relevance. Also</p> <p>2 object on the basis of privilege. If you can answer</p> <p>3 without relying on that you may do so.</p> <p>4 A. There's not privileged information. No one has</p> <p>5 ever said that to me.</p> <p>6 Q. BY MS. MARANZANO: Have you ever heard of any</p> <p>7 Texas State legislator who voted for the bill -- who</p> <p>8 voted for Senate bill 14 say that it would prevent a</p> <p>9 racial or ethnic minority from voting in Texas?</p> <p>10 MR. FREDERICK: Objection; relevance.</p> <p>11 Objection; privileged. But you may answer if you can do</p> <p>12 so without revealing privileged matters.</p> <p>13 A. Same answer. There's not any privileged</p> <p>14 information. Nobody has ever said that to me.</p> <p>15 Q. BY MS. MARANZANO: Are you aware of allegations</p> <p>16 that Senate bill 14 attempted to play on people's fears</p> <p>17 of illegal immigrants voting?</p> <p>18 A. Not that I'm aware of.</p> <p>19 Q. Are you familiar with a public letter from the</p> <p>20 Lieutenant Governor in 2007 about photo identification</p> <p>21 requirements?</p> <p>22 A. No. I'll look at it.</p> <p>23 Q. Okay. This has been -- it was previously marked.</p> <p>24 This exhibit was previously marked as Deposition Exhibit</p> <p>25 Number 3. If you can take a moment to take a look at</p>

<p style="text-align: center;">137</p> <p>1 it? Is that refreshing your recollection?</p> <p>2 A. I don't remember seeing this.</p> <p>3 Q. Can you turn your attention to Page 2 for me and</p> <p>4 at the bottom or midway through it says a letter from</p> <p>5 Lieutenant Governor David Dewhurst on voter ID bill?</p> <p>6 A. Yes.</p> <p>7 Q. In that second paragraph there's a sentence that</p> <p>8 says, "I want people to consider that with 8 to 12</p> <p>9 million illegal aliens currently living in the US the</p> <p>10 basic principle of one person, one vote is in danger."</p> <p>11 Do you see that?</p> <p>12 A. I see it.</p> <p>13 Q. Is there any connection between photo ID bills</p> <p>14 and the growth of the non-citizen population in Texas?</p> <p>15 A. I don't know the answer to that.</p> <p>16 Q. Can you look at Page 3 for me and about midway</p> <p>17 through the page there's a paragraph that says, "to</p> <p>18 address critic's concerns," do you see that paragraph?</p> <p>19 A. Yes.</p> <p>20 Q. And it talks about allowing voters to present</p> <p>21 certain forms of identification. This is, as you can</p> <p>22 see from this paragraph it's referring to a bill called</p> <p>23 House bill 218?</p> <p>24 A. Okay.</p> <p>25 Q. Do you know which of these forms of</p>	<p style="text-align: center;">139</p> <p>1 office.</p> <p>2 Q. Do you know if the Lieutenant Governor made a</p> <p>3 statement at the bill signing for Senate bill 14?</p> <p>4 A. I would assume so.</p> <p>5 Q. Do you know if this is the statement that he</p> <p>6 made?</p> <p>7 A. I don't.</p> <p>8 Q. Who -- who would have written his statement for</p> <p>9 that bill signing?</p> <p>10 A. Probably the press -- the communications director</p> <p>11 or the communications office.</p> <p>12 Q. Do you see in the right-hand corner it says LRT?</p> <p>13 A. Yes.</p> <p>14 Q. Do you know who that is or what that refers to?</p> <p>15 A. Probably -- I bet it's a lady that works in our</p> <p>16 press office, Lauren Thurston. I don't know what the R</p> <p>17 stands for.</p> <p>18 Q. Does she sometimes draft talking points for the</p> <p>19 Lieutenant Governor?</p> <p>20 A. She works for Mike Walz.</p> <p>21 Q. Can you look at the second page of this? It</p> <p>22 says, "generations of Americans have fought and died for</p> <p>23 the principal of one US citizen, one vote." Do you know</p> <p>24 if Lieutenant Governor made a statement like that after</p> <p>25 the signing of Senate bill 14 or at the signing of</p>
<p style="text-align: center;">138</p> <p>1 identification listed are also allowed in Senate bill</p> <p>2 14?</p> <p>3 A. I don't.</p> <p>4 Q. Do you know -- do you know if a draft of this</p> <p>5 letter was released to the press?</p> <p>6 A. I don't. But it's in the press.</p> <p>7 Q. Did the purpose of photo ID legislation in Texas</p> <p>8 evolve over time?</p> <p>9 A. I don't know.</p> <p>10 Q. Who would know that?</p> <p>11 A. Brian Hebert.</p> <p>12 Q. Would the Lieutenant Governor?</p> <p>13 A. I don't know.</p> <p>14 Q. Do you believe that the Lieutenant Governor has</p> <p>15 consistently indicated that one of the purposes of photo</p> <p>16 ID bills is to prevent non-citizens from voting?</p> <p>17 MR. FREDERICK: Object to relevance. You</p> <p>18 can answer.</p> <p>19 A. I do not know.</p> <p>20 (Exhibit No. 114 was marked)</p> <p>21 Q. (By Ms. Maranzano) I'm showing you what we</p> <p>22 previously marked as Deposition Exhibit 114. Can you</p> <p>23 take a look at this and let me know if you recognize it?</p> <p>24 Have you seen this before?</p> <p>25 A. I may have. It looks like something from our</p>	<p style="text-align: center;">140</p> <p>1 Senate bill 14?</p> <p>2 A. I don't.</p> <p>3 Q. Is that consistent with his position on Senate</p> <p>4 bill 14?</p> <p>5 A. Yes.</p> <p>6 Q. So is it fair to say that part of the reason that</p> <p>7 the Lieutenant Governor supported Senate bill 14 is</p> <p>8 related to ensuring that only US citizens can vote?</p> <p>9 MR. FREDERICK: I'm going to object on the</p> <p>10 basis of privilege only to the extent that this would</p> <p>11 require you to reveal privileged communication with the</p> <p>12 Lieutenant Governor and to the extent you ask answer</p> <p>13 based on public documents or statements, you can do so.</p> <p>14 A. I think he would possibly say he based it on the</p> <p>15 principal of people voting legally. If you're entitled</p> <p>16 to vote legally you should be able to vote.</p> <p>17 Q. BY MS. MARANZANO: Okay. And do you think his</p> <p>18 position was based in part on a belief that there was a</p> <p>19 need to ensure that non-citizens weren't voting?</p> <p>20 MR. FREDERICK: Same objection.</p> <p>21 A. I have the same answer. His goal was to make</p> <p>22 sure that people were legally voting.</p> <p>23 Q. BY MS. MARANZANO: Okay.</p> <p>24 MS. MARANZANO: Can we have this marked.</p> <p>25 (Exhibit No. 138 was marked.)</p>

<p style="text-align: center;">141</p> <p>1 BY MS. MARANZANO:</p> <p>2 Q. You -- I'm showing you what we're marking as</p> <p>3 Deposition Exhibit, is it 140? 138. Have you seen this</p> <p>4 before?</p> <p>5 A. I don't think so. Let me read it. I have not</p> <p>6 seen this before today.</p> <p>7 Q. Okay. Well, can you look at the -- the second</p> <p>8 paragraph and it talks about a compilation of data on</p> <p>9 race and ethnicity for redistricting bills. And it</p> <p>10 says, "historically a similar effort to obtain such</p> <p>11 demographics may be required for a voter identification</p> <p>12 bill." Do you know if there was such an effort to</p> <p>13 obtain demographics like that?</p> <p>14 A. I don't.</p> <p>15 Q. You don't know?</p> <p>16 A. I don't know.</p> <p>17 Q. Who would know the answer to that?</p> <p>18 A. Brian Hebert.</p> <p>19 Q. Would anybody else?</p> <p>20 A. I don't know. Legislative Council maybe.</p> <p>21 Q. Do you see in the first paragraph it says, "the</p> <p>22 State does not have statistics regarding the race or</p> <p>23 ethnicity of registered voters in Texas. We do have</p> <p>24 data on the number of registered voters with Hispanic</p> <p>25 surnames"?</p>	<p style="text-align: center;">143</p> <p>1 previously marked as Deposition Exhibit 120. Does this</p> <p>2 look familiar to you?</p> <p>3 A. It looks like the same document -- or the same</p> <p>4 format as the earlier document.</p> <p>5 Q. Do you know who wrote this?</p> <p>6 A. I don't.</p> <p>7 Q. Is it possible that Brian Hebert wrote this</p> <p>8 document?</p> <p>9 A. Yeah. If it came from our office, if it was</p> <p>10 produced in our office, Brian probably wrote it.</p> <p>11 Q. Do you know what the purpose of this document</p> <p>12 was?</p> <p>13 A. I don't.</p> <p>14 Q. Do you know who it would have been written for?</p> <p>15 A. I don't.</p> <p>16 Q. Do you know when it would have been written?</p> <p>17 A. Probably during the time that this was being</p> <p>18 discussed on the floor.</p> <p>19 Q. During that time that Senate bill 14 was being</p> <p>20 discussed?</p> <p>21 A. If it's from the last session, yes.</p> <p>22 Q. Can you look at the topic area that says, "is</p> <p>23 there a retrogressive effect" and underneath that</p> <p>24 there's a question posed about did Texas produce or</p> <p>25 consider any evidence regarding whether Hispanics and</p>
<p style="text-align: center;">142</p> <p>1 A. I see that.</p> <p>2 Q. "But this data is inconclusive as it simply</p> <p>3 matches the surnames of registered voters against the</p> <p>4 list of Hispanic surnames provided by the US Census</p> <p>5 bureau." Do you know if the list of Spanish surnames</p> <p>6 provided by the US Census bureau is used by the State of</p> <p>7 Texas in other analyses?</p> <p>8 A. I don't.</p> <p>9 Q. You don't know?</p> <p>10 A. I do not know.</p> <p>11 Q. Do you know anything about the Spanish surname</p> <p>12 list provided by the US Census?</p> <p>13 A. I don't.</p> <p>14 Q. If such an analysis had been conducted, would</p> <p>15 Brian Hebert be the person who would know about it?</p> <p>16 A. I believe -- yes.</p> <p>17 Q. Okay.</p> <p>18 A. If anybody would know he would know.</p> <p>19 Q. How about if we take about a 5-minute break. I</p> <p>20 am close to wrapping up.</p> <p>21 A. Sure.</p> <p>22 (Brief recess.)</p> <p>23 (Exhibit No. 120 was marked)</p> <p>24 BY MS. MARANZANO:</p> <p>25 Q. Mr. Brunson, I'm going to show you what was</p>	<p style="text-align: center;">144</p> <p>1 blacks are less likely to possess or obtain that photo</p> <p>2 ID?</p> <p>3 A. Yes.</p> <p>4 Q. Do you know if Texas did produce or consider any</p> <p>5 evidence on those issues?</p> <p>6 A. I do not.</p> <p>7 Q. And the question below that, do you know the</p> <p>8 answer to that?</p> <p>9 A. Only what we covered earlier for the Senate.</p> <p>10 Q. You're not familiar with the House vote?</p> <p>11 A. No.</p> <p>12 Q. Can you look at the topic area that says is there</p> <p>13 a less retrogressive alternative?</p> <p>14 A. Yes.</p> <p>15 Q. And in regards to non-photo identification or</p> <p>16 non-photo identification proving to be unreliable, do</p> <p>17 you know the answer to that?</p> <p>18 A. I don't.</p> <p>19 Q. You don't have a position on whether non-photo</p> <p>20 documents are unreliable?</p> <p>21 A. I don't.</p> <p>22 Q. Do you know what the Lieutenant Governor's</p> <p>23 position on that topic is?</p> <p>24 MR. FREDERICK: Object; legislative</p> <p>25 privilege to the extent it calls for mental impressions.</p>

<p style="text-align: center;">145</p> <p>1 To the extent he's actually taken a position publicly</p> <p>2 that you know of, you may answer.</p> <p>3 A. I don't know.</p> <p>4 Q. BY MS. MARANZANO: Do you know if the Lieutenant</p> <p>5 Governor has a position on the third question that says,</p> <p>6 "are there additional forms of photo ID that could be</p> <p>7 accepted for voting"?</p> <p>8 A. I do not.</p> <p>9 Q. And the third topic area says, "does the new law</p> <p>10 include mitigating effects." The first question is "are</p> <p>11 photo IDs free of charge and widely available." Is that</p> <p>12 the case under Senate bill 14?</p> <p>13 A. I think so.</p> <p>14 Q. How would you define "widely available"?</p> <p>15 MR. FREDERICK: Objection; relevance, but</p> <p>16 you may answer.</p> <p>17 A. Available around the State.</p> <p>18 Q. BY MS. MARANZANO: Do you know how the free ID --</p> <p>19 how the free ID provision under Senate bill 14 is going</p> <p>20 to be implemented or would be implemented if Senate bill</p> <p>21 14 was in effect?</p> <p>22 A. I don't.</p> <p>23 Q. So then do you know if the free IDs are widely</p> <p>24 available?</p> <p>25 A. I do not.</p>	<p style="text-align: center;">147</p> <p>1 A. No, ma'am.</p> <p>2 Q. Can I direct your attention to the second page of</p> <p>3 this document? I'm sorry. The third page of the</p> <p>4 document, but the second page of the text? Okay. And</p> <p>5 on the third full paragraph there, there's a sentence</p> <p>6 that says, "Lieutenant Governor Dewhurst has indicated</p> <p>7 that he asked Attorney General to file suit to defend</p> <p>8 the policy choices made by the Texas Legislature with</p> <p>9 regard to voter identification if US DOJ prevents the</p> <p>10 law from taking effect." Did the Lieutenant Governor</p> <p>11 ask the Attorney General to file this lawsuit?</p> <p>12 A. I don't know if he specifically asked him, but he</p> <p>13 supported it.</p> <p>14 Q. In looking at this document does it refresh your</p> <p>15 recollection at all about Section 552103 which is I</p> <p>16 think what we had talked about earlier which was a label</p> <p>17 on one of the documents?</p> <p>18 A. No. What is 552?</p> <p>19 Q. I was just asking you if you knew what it was.</p> <p>20 A. No.</p> <p>21 Q. Do you know who Jesse Ancira is?</p> <p>22 A. Yes.</p> <p>23 Q. Who is that?</p> <p>24 A. He is was general counsel and now chief of staff.</p> <p>25 Q. Do you know why Mr. Battle would have been</p>
<p style="text-align: center;">146</p> <p>1 Q. And the third question under that topic says,</p> <p>2 "are there fail-safe procedures." Do you know if that's</p> <p>3 the case under Senate bill 14?</p> <p>4 A. I don't know.</p> <p>5 Q. And the fourth question right under that do you</p> <p>6 know if that's the case with education efforts targeted</p> <p>7 at minority communities?</p> <p>8 A. I don't -- I do not know.</p> <p>9 Q. And the question under that, do you know if</p> <p>10 that's the case in Senate bill 14? A program designed</p> <p>11 to provide photo ID's in isolated and impoverished</p> <p>12 areas?</p> <p>13 A. I don't know.</p> <p>14 Q. Do you know if these items were considered by the</p> <p>15 Lieutenant Governor during his consideration of Senate</p> <p>16 bill 14?</p> <p>17 A. I do not know.</p> <p>18 MS. MARANZANO: Can we have this marked?</p> <p>19 (Exhibit No. 139 was marked.)</p> <p>20 BY MS. MARANZANO:</p> <p>21 Q. I'm showing you what we're marking as Deposition</p> <p>22 Exhibit 139. Can you take a look at it and let me know</p> <p>23 if you recognize this document?</p> <p>24 A. I don't recognize it.</p> <p>25 Q. You don't?</p>	<p style="text-align: center;">148</p> <p>1 sending this document?</p> <p>2 A. They were both the general counsels between the</p> <p>3 two offices.</p> <p>4 Q. And so in other words -- I'm not sure that fully</p> <p>5 explains it to me. Do you know why this would have been</p> <p>6 sent to Mr. Ancira?</p> <p>7 A. Ancira.</p> <p>8 Q. Ancira? Thank you.</p> <p>9 A. I don't know why. Unless -- I don't even know</p> <p>10 what it is.</p> <p>11 Q. Okay. And you said you hadn't seen it before; is</p> <p>12 that correct?</p> <p>13 A. I had not seen it.</p> <p>14 Q. Okay.</p> <p>15 A. I'm sorry.</p> <p>16 Q. No problem. I'm showing you what we previously</p> <p>17 marked as Deposition Exhibit 119. Have you seen this</p> <p>18 document before?</p> <p>19 A. It looks like the ones from earlier. It looks</p> <p>20 like one of the earlier ones.</p> <p>21 Q. Have you actually seen it before?</p> <p>22 A. I don't think so.</p> <p>23 Q. Do you know if this came from your office who</p> <p>24 would have drafted it?</p> <p>25 A. Probably Brian Hebert.</p>

<p style="text-align: center;">149</p> <p>1 Q. And can you look at the -- at the bottom where it</p> <p>2 says, "likely questions from opponents," do you know</p> <p>3 what the purpose of that section of this document would</p> <p>4 be?</p> <p>5 A. I'm sure it was just to -- if it was a briefing</p> <p>6 document, I'm sure it was just to have the likely</p> <p>7 questions and some potential answers fleshed out.</p> <p>8 Q. And would this be something that would be for the</p> <p>9 Lieutenant Governor?</p> <p>10 A. It could have been or for the -- or for the chair</p> <p>11 of the -- or the author of the bill. I don't know who</p> <p>12 it was written for.</p> <p>13 Q. Can you look at the third question under that</p> <p>14 that says, "what about people who do not have access to</p> <p>15 photo ID"?</p> <p>16 A. Yes.</p> <p>17 Q. And then the first bullet is "I'm confident that</p> <p>18 every voter in Texas has or can obtain an acceptable</p> <p>19 photo ID." Do you know why your office would be taking</p> <p>20 that position, what that confidence would be based upon?</p> <p>21 A. I don't.</p> <p>22 Q. You have no idea?</p> <p>23 A. I have no idea.</p> <p>24 Q. Who would know the answer to that?</p> <p>25 A. Probably Brian Hebert.</p>	<p style="text-align: center;">151</p> <p>1 Q. And would you testify that it -- similarly that</p> <p>2 Senate bill 14 did not have a discriminatory effect on</p> <p>3 minority voters in Texas?</p> <p>4 A. Yes, to the best of my knowledge.</p> <p>5 Q. Are there any answers that you've previously</p> <p>6 answered that you wish to change at this point?</p> <p>7 A. Not that I can think of.</p> <p>8 Q. Anything that you previously didn't recall that</p> <p>9 you now recall?</p> <p>10 A. I don't think so.</p> <p>11 Q. Okay. Well, my questioning is complete. I want</p> <p>12 to note on the record as Mr. Frederick no doubt is aware</p> <p>13 that we are keeping these depositions open because we</p> <p>14 have a pending motion with the court about a privilege</p> <p>15 issue. And I will now turn it over to Mr. Harris?</p> <p>16 EXAMINATION</p> <p>17 BY MR. HARRIS:</p> <p>18 Q. Good evening, Mr. Brunson. I'm Adam Harris from</p> <p>19 the law firm of Fried, Frank, Harris, Shriver &amp;</p> <p>20 Jacobson. We represent the Texas League of Young Voters</p> <p>21 Education Fund in this litigation. I believe in</p> <p>22 response to questioning by Ms. Maranzano you stated that</p> <p>23 you spoke to Julia Rathgeber about last night; is that</p> <p>24 correct?</p> <p>25 A. Yes.</p>
<p style="text-align: center;">150</p> <p>1 Q. Would the Lieutenant Governor?</p> <p>2 A. I don't know.</p> <p>3 Q. And under the first question?</p> <p>4 A. Yes.</p> <p>5 Q. Do you see the first bullet says, "there is</p> <p>6 potential for fraud and registration in person voting</p> <p>7 and counting of ballots. This bill addresses one type</p> <p>8 of potential fraud." Does that refresh your</p> <p>9 recollection at all to what we were talking about</p> <p>10 previously as to whether or not Senate bill 14 would</p> <p>11 address any other types of fraud other than in person</p> <p>12 voter impersonation?</p> <p>13 A. I think it just relates to in person.</p> <p>14 Q. At any time since the passage of Senate bill 14,</p> <p>15 have you come to believe that this bill would have a</p> <p>16 discriminatory effect on minority voters?</p> <p>17 A. No.</p> <p>18 Q. At any time since the passage of Senate bill 14</p> <p>19 have you come to believe it was passed with a</p> <p>20 discriminatory purpose?</p> <p>21 A. No.</p> <p>22 Q. If you are called to testify at trial in this</p> <p>23 matter would you testify that Senate bill 14 had not</p> <p>24 been passed with a discriminatory purpose?</p> <p>25 A. Yes.</p>	<p style="text-align: center;">152</p> <p>1 Q. And you spoke about her deposition which took</p> <p>2 place yesterday; is that correct?</p> <p>3 A. Only the length of time that it took.</p> <p>4 Q. And I believe you stated earlier that that was</p> <p>5 about it, that you had talked about the length and that</p> <p>6 was about it. Did you talk about anything beyond the</p> <p>7 length of her deposition?</p> <p>8 A. No. It was in a social setting and there wasn't</p> <p>9 really time to talk about anything except that she was</p> <p>10 late getting to the event.</p> <p>11 Q. Was that event a campaign event for the</p> <p>12 Lieutenant Governor?</p> <p>13 A. Yes.</p> <p>14 Q. You testified previously that the Lieutenant</p> <p>15 Governor has authority to refer a bill to the</p> <p>16 Committee-of-the-Whole; is that correct?</p> <p>17 A. Yes.</p> <p>18 Q. Putting aside any piece of legislation in general</p> <p>19 how does the Lieutenant Governor decide whether to refer</p> <p>20 a bill to the Committee-of-the-Whole?</p> <p>21 A. It's a deliberative process that takes into</p> <p>22 account different factors. In this case, it was a</p> <p>23 chance for all 31 members of the Senate to hear the same</p> <p>24 testimony at the same time.</p> <p>25 Q. Are there other means to make sure that all</p>

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1 Senators hear the same testimony other than signing a  
 2 bill to the Committee-of-the-Whole?  
 3 A. Sure.  
 4 Q. What are those means?  
 5 A. Make each one of them listen to the record or the  
 6 recording from the committee hearings.  
 7 Q. I believe you testified that the Lieutenant  
 8 Governor had the authority to appoint conferees?  
 9 A. Yes.  
 10 Q. On a particular bill?  
 11 A. Yes.  
 12 Q. And I believe you also stated that under  
 13 questioning by Ms. Maranzano that you would have had to  
 14 have been involved in appointing conferees on SB 14. Is  
 15 that your testimony?  
 16 A. I believe my testimony was I'm not 100 percent  
 17 sure whether I looked at the -- or had any substantive  
 18 input into the picking of conferees, but on a bill like  
 19 this I would definitely have seen who the bill sponsor  
 20 or bill author was requesting to be on the conference  
 21 committee.  
 22 Q. And when you say "on a bill like this," what do  
 23 you mean?  
 24 A. There's a few bills every session that have a lot  
 25 of either publicity or like the budget, a lot of, you

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1 know, a very big bill. And so because there's whatever  
 2 it was 4,000 bills filed, I don't know, 1,500 bills that  
 3 finally passed, I don't -- I don't look at all of them.  
 4 I mean, I'm sure they come across the desk. But on this  
 5 one I probably would have at least seen who they were  
 6 requesting to have.  
 7 Q. Why was SB 14 a very big deal?  
 8 A. Well --  
 9 MR. FREDERICK: Object to the extent it  
 10 mischaracterizes the testimony. But you can answer.  
 11 A. As we discussed earlier, it's a bill that had  
 12 been in front of the Legislature for at least two  
 13 sessions, maybe more than that. And it was something  
 14 that was in the news almost every day as we got headed  
 15 into session.  
 16 Q. BY MR. HARRIS: Were there any other reasons why  
 17 you or the Lieutenant Governor considered SB 14 a very  
 18 big deal?  
 19 MR. FREDERICK: Object based on privilege.  
 20 To the extent this calls for your mental impressions or  
 21 the Lieutenant Governor's, but to the extent you can  
 22 answer without revealing that, you may do so.  
 23 A. I would say any answer would have to include  
 24 privileged information from the Lieutenant Governor.  
 25 Q. BY MR. HARRIS: I believe previously you referred

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1 to SB 14 as a party line issue; is that correct?  
 2 A. I think that's the way it's been characterized in  
 3 the press.  
 4 Q. What is your understanding as to why SB 14 was a  
 5 party line issue?  
 6 A. Because members from each party voted on the  
 7 other side from the -- from the other.  
 8 Q. Do you have an understanding as to why that was?  
 9 A. They disagreed on the issue.  
 10 Q. And what is your understanding as to what that  
 11 disagreement was based upon?  
 12 MR. FREDERICK: Object based on legislative  
 13 privilege only to the extent this would require you to  
 14 reveal specific communication from legislators about SB  
 15 14 or your own or the Lieutenant Governor's thought  
 16 process. If you have an understanding that doesn't  
 17 require you to reveal those matters, you may answer.  
 18 A. I don't have anything additional to add than  
 19 earlier. I'm not quite sure what the -- at the end of  
 20 the day, what the objection is for the bill.  
 21 Q. BY MR. HARRIS: You stated earlier that you  
 22 sometimes have communications with the Lieutenant  
 23 Governor's campaign staff; is that right?  
 24 A. Yes.  
 25 Q. Did you ever discuss SB 14 with the Lieutenant

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1 Governor's campaign staff?  
 2 A. Yes.  
 3 Q. When did those discussions take place?  
 4 A. Probably prior to the legislative session.  
 5 Q. And with whom from the campaign did you speak  
 6 about SB 14?  
 7 A. I don't recall specifically. It would have been  
 8 one of the either probably Buddy Barfield.  
 9 Q. And who is Mr. Barfield?  
 10 A. He is currently the campaign manager.  
 11 Q. Did you speak to Mr. Barfield about SB 14 on more  
 12 than one occasion?  
 13 A. Probably.  
 14 Q. What was the substance of your discussion with  
 15 Mr. Barfield?  
 16 MR. FREDERICK: Object based on legislative  
 17 privilege, caution you not to reveal privileged  
 18 communications, but you may identify the general subject  
 19 matter of any conversation.  
 20 MR. HARRIS: Mr. Frederick, are you  
 21 asserting a privilege both -- as between statements --  
 22 over statements by Mr. Brunson and statements by  
 23 Mr. Barfield or just statements by Mr. Brunson?  
 24 MR. FREDERICK: Well, I'm not sure yet  
 25 whether Mr. Barfield made any statements. I think in

<p style="text-align: center;">157</p> <p>1 order to ensure that we don't take any steps that could</p> <p>2 be construed as waiver, I am asserting privilege at the</p> <p>3 moment. I will however, allow Mr. Brunson to identify</p> <p>4 the subject matter of the conversation and it's possible</p> <p>5 that we may be able to -- we may be able to proceed</p> <p>6 without violating any privilege.</p> <p>7 BY MR. HARRIS:</p> <p>8 Q. What was the subject matter of your discussion</p> <p>9 with Mr. Barfield concerning SB 14?</p> <p>10 A. Whether or not it was going to be discussed or</p> <p>11 passed in the legislative session. If it was going to</p> <p>12 be something that was worked on during the legislative</p> <p>13 session or not.</p> <p>14 Q. And what, if anything, did you say to</p> <p>15 Mr. Barfield about that question?</p> <p>16 A. I don't recall the specifics. Just that it was</p> <p>17 an issue that's been out there for at least two sessions</p> <p>18 and from his end there were a lot of -- I'm sure a lot</p> <p>19 of people on the political side, grass roots type people</p> <p>20 that were asking when this kind of a bill would be</p> <p>21 finally passed.</p> <p>22 Q. What is your basis for that statement?</p> <p>23 A. I think it -- at the convention it was actually</p> <p>24 something adopted in the platform of the party. But I</p> <p>25 know that there was a lot of interest in getting it</p>	<p style="text-align: center;">159</p> <p>1 legislator about the bill during -- before passage.</p> <p>2 Otherwise, you can answer the question.</p> <p>3 A. I think the discussions would have been pretty</p> <p>4 generic about the bill passed and probably discussions</p> <p>5 about the timing of this lawsuit and that it was being</p> <p>6 filed and whether or not the law was in effect for this</p> <p>7 election cycle. But beyond that, nothing -- nothing</p> <p>8 that they couldn't have read in the newspaper.</p> <p>9 Q. BY MR. HARRIS: Did you have any discussions with</p> <p>10 Mr. Barfield or anyone else from the campaign about the</p> <p>11 impact of SB 14 on the Lieutenant Governor's electoral</p> <p>12 chances in any races for which he was running?</p> <p>13 MR. FREDERICK: Objection; relevance. You</p> <p>14 may answer.</p> <p>15 A. No.</p> <p>16 Q. BY MR. HARRIS: Not at any time?</p> <p>17 A. Not at any time.</p> <p>18 Q. I believe you stated that you attended Angelo</p> <p>19 State and Texas State University; is that right?</p> <p>20 A. Yes.</p> <p>21 Q. Were you issued a student ID at either of those</p> <p>22 schools?</p> <p>23 A. It's been a long time ago. Yes.</p> <p>24 Q. Do you have any reason to question the</p> <p>25 reliability of student ID's? And by reliability I mean,</p>
<p style="text-align: center;">158</p> <p>1 done.</p> <p>2 Q. What if anything else did you discuss with</p> <p>3 Mr. Barfield concerning SB 14?</p> <p>4 A. I don't recall any other specifics.</p> <p>5 Q. Do you recall any specific statements</p> <p>6 Mr. Barfield made with respect to SB 14?</p> <p>7 A. I do not.</p> <p>8 Q. Did you speak to anyone from the campaign other</p> <p>9 than Mr. Barfield about SB 14?</p> <p>10 A. Not that I recall.</p> <p>11 Q. Have you spoken with the Lieutenant Governor's</p> <p>12 campaign regarding any other voter ID bill aside from SB</p> <p>13 14?</p> <p>14 A. I don't think so. I don't think -- I wouldn't</p> <p>15 have worked on it prior -- I didn't work on it prior to</p> <p>16 SB 14 is.</p> <p>17 Q. Have you spoken with the campaign about SB 14</p> <p>18 since the bill passed?</p> <p>19 A. I'm sure we have. I'm sure we have.</p> <p>20 Q. And what was the substance of those discussions?</p> <p>21 MR. FREDERICK: Object on the basis of</p> <p>22 legislative privilege only to the extent that this</p> <p>23 question would ask for the Lieutenant Governor's thought</p> <p>24 process or mental impressions formed during</p> <p>25 consideration of SB 14 or a communication from a</p>	<p style="text-align: center;">160</p> <p>1 do you have any reason to think that an ID the issued by</p> <p>2 a Texas State University or another State institution</p> <p>3 would not be a good indicator that someone is who they</p> <p>4 say they are?</p> <p>5 MR. FREDERICK: Objection; relevance. You</p> <p>6 may answer.</p> <p>7 A. I haven't thought about it. I don't have an</p> <p>8 opinion on it.</p> <p>9 Q. BY MR. HARRIS: Have you ever worked on the</p> <p>10 Lieutenant Governor's campaigns?</p> <p>11 A. Just in a volunteer basis.</p> <p>12 Q. And what did you do on a volunteer basis?</p> <p>13 A. Make phone calls for turn out and answer</p> <p>14 questions -- if any questions came up that related to</p> <p>15 his work on State side.</p> <p>16 Q. Do you generally follow the news about the</p> <p>17 Lieutenant Governor's campaigns at all?</p> <p>18 A. Yes.</p> <p>19 Q. Have you been following the recent Republican</p> <p>20 primary for the US Senate for which Lieutenant Governor</p> <p>21 is running?</p> <p>22 A. Yes.</p> <p>23 Q. And I understand that yesterday was the primary</p> <p>24 election; is that right?</p> <p>25 A. Yes.</p>

<p style="text-align: center;">161</p> <p>1 Q. What were the results of that election?</p> <p>2 MR. FREDERICK: Objection; relevance.</p> <p>3 A. He ended up -- he finished in first at 44 or</p> <p>4 45 percent. And there's a run off in 2-month.</p> <p>5 Q. BY MR. HARRIS: And who is that run off going to</p> <p>6 be against?</p> <p>7 A. Ted Cruz.</p> <p>8 Q. And who is Ted Cruz?</p> <p>9 A. He is as a guy that's running for the United</p> <p>10 States Senate that worked for the Attorney General's</p> <p>11 office here in Texas and is a lawyer.</p> <p>12 Q. Have you had any discussions at any time with the</p> <p>13 Lieutenant Governor about Mr. Cruz?</p> <p>14 MR. FREDERICK: Objection; relevance. You</p> <p>15 may answer.</p> <p>16 A. Yes.</p> <p>17 Q. BY MR. HARRIS: How often have you discussed</p> <p>18 Mr. Cruz with the Lieutenant Governor?</p> <p>19 A. Not very often.</p> <p>20 Q. Can you describe the substance of your</p> <p>21 discussions with the Lieutenant Governor about Mr. Cruz?</p> <p>22 MR. FREDERICK: Objection; relevance.</p> <p>23 A. No.</p> <p>24 Q. BY MR. HARRIS: You cannot describe the</p> <p>25 substance?</p>	<p style="text-align: center;">163</p> <p>1 MR. FREDERICK: Objection; relevance. You</p> <p>2 may answer.</p> <p>3 A. No.</p> <p>4 Q. BY MR. HARRIS: Have you ever discussed with the</p> <p>5 Lieutenant Governor or his campaign staff the importance</p> <p>6 of the Hispanic vote in Texas in general?</p> <p>7 MR. FREDERICK: Objection; relevance. You</p> <p>8 may answer.</p> <p>9 A. Not recently, but yes.</p> <p>10 Q. BY MR. HARRIS: When did you have those</p> <p>11 discussions?</p> <p>12 A. It's been several years ago. Based on the fact</p> <p>13 that the Lieutenant Governor is fluent in Spanish and</p> <p>14 he's always had an ability to communicate very fluently</p> <p>15 in Spanish. And the conversations have been generally,</p> <p>16 about him doing media interviews in Spanish to reach out</p> <p>17 to Spanish speaking only voters.</p> <p>18 Q. And what is your understanding as to why the</p> <p>19 Lieutenant Governor would reach out to Spanish only</p> <p>20 speaking voters?</p> <p>21 MR. FREDERICK: Objection; relevance. You</p> <p>22 my answer.</p> <p>23 A. Because he would like to reach out to all voters.</p> <p>24 Q. BY MR. HARRIS: Have you ever had any discussions</p> <p>25 with Lieutenant Governor about the size of the Hispanic</p>
<p style="text-align: center;">162</p> <p>1 A. I can. It's a close race and he hopes -- you</p> <p>2 know, obviously hoping to get over 50 percent last</p> <p>3 night.</p> <p>4 Q. Do you have any understanding as to Mr. Cruz's</p> <p>5 racial or ethnic background?</p> <p>6 MR. FREDERICK: Objection; relevance. You</p> <p>7 may answer.</p> <p>8 A. I do personally?</p> <p>9 Q. BY MR. HARRIS: Yes?</p> <p>10 A. Yes.</p> <p>11 Q. What is his background, to your knowledge?</p> <p>12 MR. FREDERICK: Same objection.</p> <p>13 A. His public statements have been that his father</p> <p>14 came over from Cuba and worked at the University of</p> <p>15 Texas. And so he's Cuban.</p> <p>16 Q. BY MS. MARANZANO: Have you had any discussions</p> <p>17 with Lieutenant Governor or his campaign staff about</p> <p>18 that fact, the fact that Mr. Cruz ask Cuban?</p> <p>19 MR. FREDERICK: Objection; relevance. You</p> <p>20 may answer.</p> <p>21 A. No.</p> <p>22 Q. BY MR. HARRIS: Have you had any discussions with</p> <p>23 the Lieutenant Governor or his campaign staff about the</p> <p>24 importance of the Hispanic vote in this years Republican</p> <p>25 primary for the Senate?</p>	<p style="text-align: center;">164</p> <p>1 voting block in Texas?</p> <p>2 MR. FREDERICK: Objection; relevance. You</p> <p>3 may answer.</p> <p>4 A. No.</p> <p>5 Q. BY MR. HARRIS: Have you ever had any such</p> <p>6 discussions with the Lieutenant Governor's campaign</p> <p>7 staff?</p> <p>8 MR. FREDERICK: Objection; relevance.</p> <p>9 A. About?</p> <p>10 Q. BY MR. HARRIS: About the size of the Hispanic</p> <p>11 voting block in Texas?</p> <p>12 MR. FREDERICK: Same objection.</p> <p>13 A. No.</p> <p>14 Q. BY MR. HARRIS: Have you ever had any discussions</p> <p>15 with the Lieutenant Governor or his campaign staff about</p> <p>16 the importance of the African-American vote in Texas?</p> <p>17 MR. FREDERICK: Objection; relevance. You</p> <p>18 may answer.</p> <p>19 A. Not that I recall.</p> <p>20 Q. BY MR. HARRIS: Do you have any understanding as</p> <p>21 to disparities in the extent to which particular racial</p> <p>22 group support one party or another in Texas?</p> <p>23 MR. FREDERICK: Objection; relevance. You</p> <p>24 may answer.</p> <p>25 A. I do not.</p>

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1 Q. BY MR. HARRIS: Do you follow the Lieutenant  
 2 Governor Governor's election results?  
 3 A. Yes.  
 4 Q. And do you have any understanding -- let's say  
 5 taking his last election in 2010, do you have any  
 6 understanding as to how the Lieutenant Governor did  
 7 amongst Hispanic voters in Texas?  
 8 MR. FREDERICK: Objection; relevance. You  
 9 may answer.  
 10 A. I do not.  
 11 Q. BY MR. HARRIS: How about amongst  
 12 African-Americans, do you have any understanding as to  
 13 how the Lieutenant Governor did amongst African-American  
 14 vote engineers 2010?  
 15 MR. FREDERICK: Objection; relevance. You  
 16 may answer.  
 17 A. I don't.  
 18 Q. BY MR. HARRIS: If I ask those same two questions  
 19 about any previous election would you give the same  
 20 answer?  
 21 A. Yes.  
 22 Q. How about Governor Perry? I assume you must  
 23 generally at least follow his elections; is that right?  
 24 MR. FREDERICK: Objection; relevance.  
 25 A. Yes.

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1 Q. BY MR. HARRIS: Do you have any understanding as  
 2 to how Governor Perry did amongst Hispanic voters in  
 3 2010?  
 4 MR. FREDERICK: Objection; relevance.  
 5 A. No.  
 6 Q. BY MR. HARRIS: Do you have any understanding as  
 7 to how Governor Perry did amongst African-American  
 8 voters in 2010?  
 9 MR. FREDERICK: Objection; relevance.  
 10 A. I don't.  
 11 Q. BY MR. HARRIS: What is your understanding as to  
 12 the importance of the issue of immigration in this  
 13 year's US Senate primary -- Republican primary, excuse  
 14 me?  
 15 MR. FREDERICK: Objection; relevance. You  
 16 may answer.  
 17 A. I know it's an issue that's definitely discussed  
 18 during the campaign.  
 19 Q. BY MR. HARRIS: Can you elaborate on that?  
 20 MR. FREDERICK: Objection; relevance.  
 21 Objection; form. You may answer.  
 22 A. It is an -- immigration has been an issue that's  
 23 been on the public radar for several years that comes up  
 24 pretty often as the political season heats up in  
 25 particular.

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1 Q. BY MR. HARRIS: And how would you characterize  
 2 the Lieutenant Governor's position on immigration as  
 3 opposed to Mr. Cruz's position on immigration?  
 4 MR. FREDERICK: Objection; relevance.  
 5 A. I'm not advised of what Ted Cruz's position is.  
 6 And so I couldn't do a -- I don't know how the  
 7 comparison would be.  
 8 Q. BY MR. HARRIS: Have you been following any of  
 9 the televised adds or radio adds or any form of adds in  
 10 the campaign?  
 11 A. Yes.  
 12 Q. And have any of those adds dealt with the issue  
 13 of immigration?  
 14 A. I would say yes.  
 15 Q. And can you describe the adds that you've seen  
 16 that relate to immigration?  
 17 MR. FREDERICK: Objection; relevance.  
 18 Objection; form. You can answer.  
 19 A. I have not seen any adds that relate to  
 20 immigration except if there was a mention of it in an  
 21 add that said illegal immigration or something like  
 22 that.  
 23 Q. BY MR. HARRIS: And the add that you're  
 24 describing, would that be an add by the Lieutenant  
 25 Governor or by another candidate?

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1 MR. FREDERICK: Objection; relevance.  
 2 Objection; assumes facts not in evidence. You may  
 3 answer.  
 4 A. Probably most candidates.  
 5 Q. BY MR. HARRIS: Are you familiar with assertions  
 6 by Mr. Cruz in this year's Republican Senate primary to  
 7 the affect that the Lieutenant Governor's advisors  
 8 believe that GOP voters in Texas would not support a  
 9 Hispanic candidate?  
 10 MR. FREDERICK: Objection; relevance.  
 11 A. I'm not aware of that.  
 12 Q. BY MR. HARRIS: You didn't read anything?  
 13 A. No.  
 14 Q. Are you aware of the assertions Lieutenant  
 15 Governor campaign for this year's Republican nomination  
 16 for the Senate have involved resorts to bigotry?  
 17 MR. FREDERICK: Objection; relevance.  
 18 Objection; assumes facts not in evidence. You answer if  
 19 you can.  
 20 A. Have I seen an article about that?  
 21 Q. BY MR. HARRIS: Yes. What did you readable that?  
 22 MR. FREDERICK: Objection; relevance.  
 23 Objection; form.  
 24 A. That Cruz's campaign said that some statement or  
 25 issue being bigotry, that the Lieutenant Governor --

<p style="text-align: center;">169</p> <p>1 yeah, the Lieutenant Governor laid out.</p> <p>2 Q. BY MR. HARRIS: Did you discuss those allegations</p> <p>3 with the Lieutenant Governor?</p> <p>4 MR. FREDERICK: Objection; relevance.</p> <p>5 A. I did not.</p> <p>6 Q. BY MR. HARRIS: Have you discussed those</p> <p>7 allegations with anyone on the Lieutenant Governor's</p> <p>8 staff at the Capital or his campaign staff?</p> <p>9 MR. FREDERICK: Objection; relevance.</p> <p>10 A. No.</p> <p>11 Q. BY MR. HARRIS: What do you think of those</p> <p>12 allegations?</p> <p>13 MR. FREDERICK: Objection; relevance.</p> <p>14 Objection; form.</p> <p>15 A. I don't have an opinion on them. I haven't</p> <p>16 looked at it close enough to have an opinion.</p> <p>17 Q. BY MR. HARRIS: So your testimony is that you</p> <p>18 don't have an opinion on the assertion that the</p> <p>19 Lieutenant Governor's campaign has resorted to bigotry?</p> <p>20 MR. FREDERICK: Objection; form. Objection;</p> <p>21 misstates prior testimony. You may answer.</p> <p>22 A. Could you repeat the question?</p> <p>23 Q. BY MR. HARRIS: I would ask the court reporter to</p> <p>24 please read back the question? That's okay. Let's move</p> <p>25 on. I know your time is scarce. Have you discussed</p>	<p style="text-align: center;">171</p> <p>1 MR. FREDERICK: Objection; relevance.</p> <p>2 A. Keep me posted on what's happening.</p> <p>3 Q. BY MR. HARRIS: Did he say anything else?</p> <p>4 A. That's about it.</p> <p>5 Q. Can you recall anything else he said?</p> <p>6 MR. FREDERICK: Objection, relevance.</p> <p>7 A. No.</p> <p>8 Q. BY MR. HARRIS: Have you discussed this</p> <p>9 litigation -- again putting aside your attorneys and I</p> <p>10 think putting aside the Lieutenant Governor's general</p> <p>11 counsel as well and putting aside the Lieutenant</p> <p>12 Governor since we just spoke about him, have you</p> <p>13 discussed this litigation with anyone else?</p> <p>14 MR. FREDERICK: Objection; relevance.</p> <p>15 A. Not that I recall. If there was any discussions</p> <p>16 it was nothing substantive.</p> <p>17 Q. BY MR. HARRIS: I believe you testified earlier</p> <p>18 that SB 14 would apply equally to Democrats and</p> <p>19 Republicans; is that right?</p> <p>20 A. Well, if it's -- if it's finally made law.</p> <p>21 Q. Are you aware of any analysis showing whether</p> <p>22 Democrats and Republicans are equally likely to possess</p> <p>23 the required forms of ID under SB 14?</p> <p>24 MR. FREDERICK: Objection; relevance.</p> <p>25 A. I am not.</p>
<p style="text-align: center;">170</p> <p>1 this -- putting aside your attorneys, have you discussed</p> <p>2 this litigation -- and by this litigation I mean the</p> <p>3 case you're here testifying about, with anyone?</p> <p>4 MR. FREDERICK: Objection; relevance. You</p> <p>5 may answer.</p> <p>6 A. Just with our general counsel.</p> <p>7 Q. BY MR. HARRIS: Have you discussed litigation</p> <p>8 with the Lieutenant Governor?</p> <p>9 MR. FREDERICK: Objection; relevance.</p> <p>10 A. I have discussed it from the standpoint that he</p> <p>11 knows that myself and Julia are being deposed.</p> <p>12 Q. BY MR. HARRIS: Have you discussed the litigation</p> <p>13 with the Lieutenant Governor from any other standpoint?</p> <p>14 MR. FREDERICK: Objection; relevance.</p> <p>15 A. At the time the lawsuit was filed, just that the</p> <p>16 lawsuit had been filed.</p> <p>17 Q. BY MR. HARRIS: I believe you testified -- excuse</p> <p>18 me. Going back -- when the lawsuit was filed, what if</p> <p>19 anything in particular did you discuss about that fact</p> <p>20 with the Lieutenant Governor?</p> <p>21 MR. FREDERICK: Objection; relevance.</p> <p>22 A. Just the fact that it had been filed.</p> <p>23 Q. BY MR. HARRIS: And what, if anything, did the</p> <p>24 Lieutenant Governor say about the fact that the lawsuit</p> <p>25 had been filed?</p>	<p style="text-align: center;">172</p> <p>1 Q. BY MR. HARRIS: What was the Lieutenant</p> <p>2 Governor's role in including a carve out for voter ID</p> <p>3 laws from the two-thirds rule under the Senate rules in</p> <p>4 2011?</p> <p>5 MR. FREDERICK: Object to form of the</p> <p>6 question. Object it assumes facts not in evidence. You</p> <p>7 may answer.</p> <p>8 MR. HARRIS: I'll take the objection under</p> <p>9 advisement and rephrase.</p> <p>10 BY MR. HARRIS:</p> <p>11 Q. Did the Lieutenant Governor have a role including</p> <p>12 a carve-out for the two-thirds rules under the Senate</p> <p>13 rules?</p> <p>14 MR. FREDERICK: Objection; form. Assumes</p> <p>15 facts not in evidence. Object to the characterization</p> <p>16 of the Senate rule. You may answer.</p> <p>17 A. Yes.</p> <p>18 Q. BY MR. HARRIS: What was Lieutenant Governor's</p> <p>19 role?</p> <p>20 MR. FREDERICK: Object to the form. Also</p> <p>21 caution you not to reveal any privileged information.</p> <p>22 But you can answer if you can do so.</p> <p>23 A. Traditionally the Lieutenant Governor and the</p> <p>24 Senators work together at the beginning of session to</p> <p>25 adopt the rules. And he's -- he and any other</p>

<p style="text-align: center;">173</p> <p>1 Lieutenant Governor would have participated in</p> <p>2 discussions with any set of Senators about what the</p> <p>3 rules of Senate would be for the upcoming session.</p> <p>4 MR. HARRIS: I'm going to ask this document</p> <p>5 be marked as League of Young Voters Exhibit 1?</p> <p>6 (Exhibit No. 1 was marked.)</p> <p>7 BY MR. HARRIS:</p> <p>8 Q. Mr. Brunson, the court reporter has handed you</p> <p>9 what's been marked as League of Young Voters Exhibit 1</p> <p>10 which bears the Bates number TX0006413. Do you</p> <p>11 recognize this document?</p> <p>12 A. I don't.</p> <p>13 Q. I see at the top left of the page there's a name,</p> <p>14 Sheera Ikeler. Do you know who that is?</p> <p>15 A. I don't.</p> <p>16 Q. It appears from the face of this document that</p> <p>17 it's an e-mail. Do you agree with that?</p> <p>18 A. Yes.</p> <p>19 Q. And it looks like this e-mail was both sent from</p> <p>20 and to someone named Skipper Wallace. Do you see that?</p> <p>21 A. Yes.</p> <p>22 Q. Who is Skipper Wallace?</p> <p>23 A. He is the TRCCA legislative chairman.</p> <p>24 Q. And when you say "TRCCA," what does that stand</p> <p>25 for?</p>	<p style="text-align: center;">175</p> <p>1 A. Yes.</p> <p>2 Q. And under the -- two lines down from what I just</p> <p>3 read it states, "Lieutenant Governor Dewhurst for</p> <p>4 suspending the two-thirds rule on the Senate that</p> <p>5 allowed the bill to be considered." Do you see that</p> <p>6 line?</p> <p>7 A. I do see it.</p> <p>8 Q. Why would Skipper Wallace issue a big thank you</p> <p>9 to Lieutenant Governor Dewhurst for suspending the</p> <p>10 two-thirds rule in the Senate that allowed the bill the</p> <p>11 be considered?</p> <p>12 MR. FREDERICK: Objection; calls for</p> <p>13 speculation.</p> <p>14 A. I would say you have to ask Skipper Wallace.</p> <p>15 Q. BY MR. HARRIS: Do you have any understand as to</p> <p>16 why Skipper Wallace would issue a big thank you to the</p> <p>17 Lieutenant Governor for suspending the two-thirds rule</p> <p>18 and allowing the bill to be considered?</p> <p>19 MR. FREDERICK: Objection; relevance.</p> <p>20 A. You would have to ask Skipper Wallace.</p> <p>21 Q. BY MR. HARRIS: Is it your testimony that you do</p> <p>22 not have any understanding as to why Skipper Wallace</p> <p>23 would issue a big thank you to Lieutenant Governor</p> <p>24 Dewhurst for suspending the two-thirds rule?</p> <p>25 MR. FREDERICK: Objection; mischaracterizes</p>
<p style="text-align: center;">174</p> <p>1 A. I think it's the Texas Republican County Chairman</p> <p>2 Association.</p> <p>3 Q. And do you have any understanding as to what that</p> <p>4 group is?</p> <p>5 A. It's the collection of the Republican county</p> <p>6 chairman around the State.</p> <p>7 Q. I see that the subject line here, it looks like</p> <p>8 it's a forward it says FW and then the subject is voter</p> <p>9 ID bill?</p> <p>10 A. Yes.</p> <p>11 Q. It looks like the date of this e-mail was May 22,</p> <p>12 2011. Do you see that?</p> <p>13 A. Yes.</p> <p>14 Q. Do you understand the subject voter ID bill to</p> <p>15 mean SB 14?</p> <p>16 A. Yes.</p> <p>17 Q. And it looks like the first line of this -- of</p> <p>18 the body of this e-mail in all caps and it says, "a big</p> <p>19 thank you." Do you see that line?</p> <p>20 A. I do.</p> <p>21 Q. Then going on it says that "the Texas Republican</p> <p>22 County Chairman's Association would like to go on record</p> <p>23 as thanking the following people for the passage of the</p> <p>24 voter ID bill." And then skipping -- it looks like</p> <p>25 there's a list of names after that. Do you see that?</p>	<p style="text-align: center;">176</p> <p>1 testimony. Objection; relevance. You may answer.</p> <p>2 A. I think if I had an answer it would be an</p> <p>3 assumption. If you ask Skipper Wallace he would be able</p> <p>4 to tell you.</p> <p>5 Q. BY MR. HARRIS: Have you heard of a group called</p> <p>6 the King Street Patriots?</p> <p>7 A. I've heard of them.</p> <p>8 Q. Who are the King Street Patriots?</p> <p>9 A. I think it's a Houston -- Houston based -- I</p> <p>10 believe it's Houston based -- somewhere in the Houston</p> <p>11 area tea party group.</p> <p>12 Q. And to your knowledge has the Lieutenant Governor</p> <p>13 attended any events hosted or sponsored by the King</p> <p>14 Street Patriots?</p> <p>15 A. He probably has. I actually think he has gone to</p> <p>16 one or more of their meetings.</p> <p>17 Q. Do you know whether he has done so recently?</p> <p>18 A. I don't know.</p> <p>19 Q. I believe you testified earlier that because you</p> <p>20 think it's hard to do things in general without a</p> <p>21 driver's license, SB 14 cannot negatively effect that</p> <p>22 many people. Was that your testimony?</p> <p>23 A. I said I find it hard to -- I find it hard to</p> <p>24 believe that it would be -- there would be that many</p> <p>25 people without some form of photo ID given in the</p>

<p style="text-align: center;">177</p> <p>1 current society how much you have to have a photo ID --</p> <p>2 voter photo ID to do anything.</p> <p>3 Q. Do you know how many registered voters in Texas</p> <p>4 lack a driver's license?</p> <p>5 A. I don't.</p> <p>6 Q. Do you know whether any analysis of that question</p> <p>7 was performed when SB 14 was being considered?</p> <p>8 A. I do not.</p> <p>9 Q. Do you know whether any such analysis has been</p> <p>10 done since SB 14 was passed?</p> <p>11 A. I do not.</p> <p>12 Q. Do you know how many voters in Texas lack --</p> <p>13 excuse me, registered voters in Texas lack the other</p> <p>14 forms of identification permitted to vote under SB 14?</p> <p>15 A. I don't.</p> <p>16 Q. If we could just take a 2-minute break I'll just</p> <p>17 confirm that I don't have any other questions and then</p> <p>18 you can be on your way?</p> <p>19 A. Sure.</p> <p>20 Q. Thank you.</p> <p>21 (Brief recess.)</p> <p>22 BY MR. HARRIS:</p> <p>23 Q. I believe you testified in 2011 Governor Perry</p> <p>24 designated the voter ID law as an emergency item; is</p> <p>25 that correct?</p>	<p style="text-align: center;">179</p> <p>1 designation of SB 14 as an emergency item?</p> <p>2 A. It would have had to have been in December of</p> <p>3 2010 or early January of 2011, prior to the order coming</p> <p>4 out.</p> <p>5 Q. And what was the substance of your discussion</p> <p>6 with Mr. Sullivan about the designation of SB 14 as an</p> <p>7 emergency legislation?</p> <p>8 MR. FREDERICK: Objection; relevance.</p> <p>9 A. That it was an issue that was definitely going to</p> <p>10 come up in the session. And as far as the emergency</p> <p>11 order, the discussion was if you have a whole bunch of</p> <p>12 other issues to work on during the session if you did</p> <p>13 make an emergency item you would work on it in the first</p> <p>14 60 days of the session.</p> <p>15 Q. BY MR. HARRIS: Did you and Mr. Sullivan at any</p> <p>16 time discuss why the Governor had designated SB 14 as an</p> <p>17 emergency item?</p> <p>18 A. Not that I recall.</p> <p>19 Q. Did you at any time discuss the designation of SB</p> <p>20 14 as an emergency item with anyone on the Governor's</p> <p>21 staff other than Mr. Sullivan?</p> <p>22 A. Not that I recall. Probably not.</p> <p>23 Q. Are there individuals who you think you may have</p> <p>24 had discussions with from the Governor's staff with</p> <p>25 regard to SB 14 as an emergency item?</p>
<p style="text-align: center;">178</p> <p>1 A. Yes.</p> <p>2 Q. Why did Governor Perry designate SB 14 as an</p> <p>3 emergency item?</p> <p>4 MR. FREDERICK: Objection; relevance.</p> <p>5 Objection; calls for speculation. You can answer if you</p> <p>6 know.</p> <p>7 A. I don't know.</p> <p>8 Q. BY MR. HARRIS: Did you have any discussions with</p> <p>9 Governor Perry about why he designated SB 14 as an</p> <p>10 emergency item?</p> <p>11 A. No.</p> <p>12 Q. Did you any discussions with any of Governor</p> <p>13 Perry's staff about why the Governor designated SB 14 as</p> <p>14 an emergency item?</p> <p>15 A. Yes.</p> <p>16 Q. With whom did you -- with whom from the</p> <p>17 Governor's staff did you discuss why the Governor</p> <p>18 designated SB 14 as an emergency item?</p> <p>19 A. With Ray Sullivan. I don't know if we discussed</p> <p>20 why he did it. I thought the question was did we</p> <p>21 discuss voter ID.</p> <p>22 Q. Okay. Well, we can certainly talk about both?</p> <p>23 Who is Mr. Sullivan?</p> <p>24 A. He was the Governor's chief of staff.</p> <p>25 Q. When did you discuss with Mr. Sullivan the</p>	<p style="text-align: center;">180</p> <p>1 MR. FREDERICK: Objection; vague. You may</p> <p>2 answer.</p> <p>3 A. No.</p> <p>4 Q. BY MR. HARRIS: Did you have any discussions with</p> <p>5 the Lieutenant Governor about the designation of SB 14</p> <p>6 as emergency legislation?</p> <p>7 MR. FREDERICK: Object only to the extent it</p> <p>8 calls for the substance of those discussions. You may</p> <p>9 however answer the question whether or not a discussion</p> <p>10 occurred.</p> <p>11 A. Yes, we discussed voter ID.</p> <p>12 Q. BY MR. HARRIS: Did you particularly discuss the</p> <p>13 designation of voter ID as an emergency item?</p> <p>14 MR. FREDERICK: Again, same objection.</p> <p>15 A. Yes.</p> <p>16 Q. BY MR. HARRIS: Did you discuss that subject on</p> <p>17 more than one occasion with the Lieutenant Governor?</p> <p>18 A. I'm sure we did.</p> <p>19 Q. When did these discussions occur?</p> <p>20 A. Prior to the session and during the session.</p> <p>21 Q. What was the substance of your discussion with</p> <p>22 the Lieutenant Governor regarding why SB 14 was</p> <p>23 designated as an emergency item?</p> <p>24 MR. FREDERICK: Objection; legislative</p> <p>25 privilege and instruct you not to answer.</p>

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1 BY MR. HARRIS:  
 2 Q. Are you taking your counsel's advice?  
 3 A. Yes.  
 4 Q. Are you familiar with statements which -- let me  
 5 step back. Do you know an individual named Mike Walz?  
 6 A. Yes.  
 7 Q. Who is Mr. Walz?  
 8 A. He is the Lieutenant Governor's communications  
 9 director?  
 10 Q. Do you recall any public statements by Mr. Walz  
 11 regarding why SB 14 was designated as an emergency item?  
 12 A. I don't recall his statements.  
 13 Q. In a typical legislative session how many items  
 14 are designated as an emergency?  
 15 A. It depends on the session. I think last time --  
 16 last session there were, I don't remember. Three to  
 17 five. There's normally not a lot of emergency items.  
 18 Q. Is three to five a pretty typical number in a  
 19 session as far as how many items get designated as an  
 20 emergency?  
 21 A. Probably. Yes.  
 22 Q. In the 2011 session what other items were  
 23 designated as an emergency besides SB 14?  
 24 A. I think the Governor designated voter ID and  
 25 sanctuary cities.

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1 Q. Do you recall anything else?  
 2 A. Yeah. There was -- I have to think about it for  
 3 a second. Give me a second.  
 4 Q. Sure.  
 5 A. The sonogram bill and seems like there was one  
 6 more. I can't recall. It may have had something to do  
 7 with like some -- I don't remember what it was.  
 8 Q. Since you've worked for the Lieutenant Governor  
 9 how many times has the Senate met as the  
 10 Committee-of-the-Whole?  
 11 A. I don't know the exact number. But probably  
 12 three or four.  
 13 Q. The -- you -- besides SB 14 -- I apologize if you  
 14 testified this previously, but I just want to clarify  
 15 the record, besides SB 14 what other issues has the  
 16 Senate deliberated on as the Committee-of-the-Whole?  
 17 A. I believe school finance. Like maybe the '06,  
 18 '07 time period. There may be others. I just --  
 19 honestly, until last session didn't have to pay  
 20 attention to anything except the budget.  
 21 Q. Does the Lieutenant Governor consider it  
 22 important to reach out to minority communities?  
 23 MR. FREDERICK: Objection; relevance. And I  
 24 would also object on the basis of privilege to the  
 25 extent that this seeks the Lieutenant Governor's thought

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1 process about any specific bill. I suppose if you can  
 2 answer without revealing privileged information you may  
 3 do so.  
 4 BY MR. HARRIS:  
 5 Q. Let me clarify that I'm not asking about any  
 6 particular legislation. But in general does Lieutenant  
 7 Governor consider it important to reach out to minority  
 8 communities in Texas?  
 9 MR. FREDERICK: Objection; relevance.  
 10 Objection; vague. You may answer if you can.  
 11 A. I think he feels it's important to reach out to  
 12 all groups in Texas.  
 13 Q. BY MR. HARRIS: What, if anything, has the  
 14 Lieutenant Governor done since you've -- since you've  
 15 worked for him to reach out to the Hispanic community in  
 16 Texas?  
 17 MR. FREDERICK: Objection; relevance.  
 18 Objection; vague. You may answer.  
 19 A. He has -- like we talked about earlier he's done  
 20 a lot of Spanish language media. One that is  
 21 particularly in South Texas when we were travelling on  
 22 the border and, you know, he's probably been down to the  
 23 border area more than any other statewide -- no offense  
 24 to General Abbott, but I think given that he's a fluent  
 25 Spanish speaker he feels like it's an easy win for him

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1 to be able to communicate and reach out. It's, I  
 2 think -- I was trying to think of any other specific  
 3 things. But I think he thinks outreach is important.  
 4 Q. BY MR. HARRIS: And just to clarify, since your  
 5 counsel objected, if I use the term reach out or  
 6 political outreach, do you have an understanding of what  
 7 that means?  
 8 A. Yes.  
 9 Q. Just for the record, what is that understanding?  
 10 A. Could you --  
 11 MR. FREDERICK: Object to relevance, but you  
 12 can answer.  
 13 A. Could you repeat the question?  
 14 Q. BY MR. HARRIS: Sure. What is your understanding  
 15 of the term political outreach?  
 16 A. Reaching out to the political voters.  
 17 Q. When you say that the -- that the Lieutenant  
 18 Governor has reached out to Spanish speakers because  
 19 it's an easy win for him, what do you mean by that?  
 20 MR. FREDERICK: Objection; relevance. You  
 21 may answer.  
 22 A. He's perfectly fluent in Spanish. It's a natural  
 23 fit is what I mean. It's a win for the voters that only  
 24 speak Spanish and a win for the Lieutenant Governor  
 25 because not all the elected officials can fluently speak

<div>185</div> <div><div>1</div><div>Spanish.</div><div>2</div><div>Q. BY MR. HARRIS: I'm a little confused because I</div><div>3</div><div>think I asked you earlier if you had any understanding</div><div>4</div><div>of how the Lieutenant Governor has done in terms of his</div><div>5</div><div>elections amongst Hispanic voters. And now you're</div><div>6</div><div>testifying that Hispanic vote because the Lieutenant</div><div>7</div><div>Governor is a Spanish speaker is an easy win for him.</div><div>8</div><div>Do you wish to revise your earlier answer with regard to</div><div>9</div><div>your understanding of how the Lieutenant Governor has</div><div>10</div><div>done amongst Hispanic voters?</div><div>11</div><div>MR. FREDERICK: Objection; vague.</div><div>12</div><div>Objection; relevance. You can answer if you can.</div><div>13</div><div>A. No. Because you asked if I knew specifics about</div><div>14</div><div>Hispanic voter turn out or election results and I don't.</div><div>15</div><div>Q. BY MR. HARRIS: Putting aside specifics, do you</div><div>16</div><div>have any general understanding as to how the Lieutenant</div><div>17</div><div>Governor has done in his elections amongst Hispanic</div><div>18</div><div>voters in Texas?</div><div>19</div><div>MR. FREDERICK: Objection; relevance.</div><div>20</div><div>A. I think he's held his own.</div><div>21</div><div>Q. BY MR. HARRIS: When you say "held his own," what</div><div>22</div><div>do you mean?</div><div>23</div><div>MR. FREDERICK: Objection; relevance.</div><div>24</div><div>A. He's done as good as he can.</div><div>25</div><div>Q. BY MR. HARRIS: How good is that?</div></div>	<div>187</div> <div><div>1</div><div>CHANGES AND SIGNATURE</div><div>2</div><div>RE: STATE OF TEXAS VS. HOLDER</div><div>3</div><div></div><div>4</div><div>PAGE LINE CHANGE REASON</div><div>5</div><div></div><div>6</div><div></div><div>7</div><div></div><div>8</div><div></div><div>9</div><div></div><div>10</div><div></div><div>11</div><div></div><div>12</div><div></div><div>13</div><div></div><div>14</div><div></div><div>15</div><div></div><div>16</div><div></div><div>17</div><div></div><div>18</div><div></div><div>19</div><div></div><div>20</div><div></div><div>21</div><div></div><div>22</div><div></div><div>23</div><div></div><div>24</div><div></div><div>25</div><div></div></div>
<div>186</div> <div><div>1</div><div>MR. FREDERICK: Objection; relevance.</div><div>2</div><div>Objection; form. You can answer.</div><div>3</div><div>A. It is what it is. He's done as well as he can.</div><div>4</div><div>I think he's tried to outreach to all groups, not just</div><div>5</div><div>any one specific group.</div><div>6</div><div>Q. BY MR. HARRIS: Has the Lieutenant Governor ever</div><div>7</div><div>won a majority of the Hispanic vote in any of his</div><div>8</div><div>elections?</div><div>9</div><div>MR. FREDERICK: Objection; relevance.</div><div>10</div><div>A. I don't know the answer to that.</div><div>11</div><div>Q. BY MR. HARRIS: Do you know whether Lieutenant</div><div>12</div><div>Governor has ever won a majority of African-American</div><div>13</div><div>voters?</div><div>14</div><div>A. I don't know the answer to that, either.</div><div>15</div><div>Q. At this time the Texas League has no further</div><div>16</div><div>questions, but we reserve the right to recall</div><div>17</div><div>Mr. Brunson subject to the court's ruling on the motion</div><div>18</div><div>to compel?</div><div>19</div><div>(Deposition concluded.)</div><div>20</div><div></div><div>21</div><div></div><div>22</div><div></div><div>23</div><div></div><div>24</div><div></div><div>25</div><div></div></div>	<div>188</div> <div><div>1</div><div>I, BLAINE BRUNSON, have read the foregoing</div><div>2</div><div>deposition and hereby affix my signature that same is</div><div>3</div><div>true and correct, except as noted above.</div><div>4</div><div>BLAINE BRUNSON</div><div>5</div><div>THE STATE OF TEXAS )</div><div>6</div><div>)</div><div>7</div><div>COUNTY OF TRAVIS )</div><div>8</div><div>Before me, , on this day</div><div>9</div><div>personally appeared BLAINE BRUNSON, known to me (or</div><div>10</div><div>proved to me under oath or through</div><div>11</div><div>(description of identity card or other document) to be</div><div>12</div><div>the person whose name is subscribed to the foregoing</div><div>13</div><div>instrument and acknowledged to me that they executed the</div><div>14</div><div>same for the purposes and consideration therein</div><div>15</div><div>expressed.</div><div>16</div><div>Given under my hand and seal of office this ____</div><div>17</div><div>day of , .</div><div>18</div><div></div><div>19</div><div></div><div>20</div><div></div><div>21</div><div></div><div>22</div><div></div><div>23</div><div></div><div>24</div><div></div><div>25</div><div></div></div>

<p style="text-align: center;">189</p> <p>1           IN THE UNITED STATES DISTRICT COURT 2           FOR THE DISTRICT OF COLUMBIA</p> <p>3           STATE OF TEXAS        ) 4                                        ) 5           VS.                        ) NO. 12-CV-128 6                                        ) (DST, RMC, RLW) 7                                        ) 8           ERIC H. HOLDER, JR., ) 9           In his official        ) 10          Capacity as Attorney   ) 11          General of the United   ) 12          States                    ) 13                                        ) 14                                        ) 15                                        ) 16                                        ) 17                                        ) 18                                        ) 19                                        ) 20                                        ) 21                                        ) 22                                        ) 23                                        ) 24                                        ) 25                                        )</p> <p style="text-align: center;">*****</p> <p style="text-align: center;">CERTIFICATE FROM THE ORAL DEPOSITION OF BLAINE BRUNSON MAY 30, 2012</p> <p style="text-align: center;">*****</p> <p>12          I, Janalyn Reeves, a Certified Shorthand Reporter 13          in and for the State of Texas, do hereby certify that 14          the foregoing deposition is a full, true and correct 15          transcript; 16          That the foregoing deposition of BLAINE BRUNSON, the 17          Witness, hereinbefore named was at the time named, taken 18          by me in stenograph on May 30, 2012, the said Witness 19          having been by me first duly cautioned and sworn to tell 20          the truth, the whole truth, and nothing but the truth, 21          and the same were thereafter reduced to typewriting by 22          me or under my direction. The charge for the completed 23          deposition is \$_____ due from Defendant. 24          () That pursuant to the Federal Rules of Civil 25          Procedure, the Witness shall have 30 days after being</p>	<p style="text-align: center;">191</p> <p>1          deposition is as follows: 2                Ms. Maranzano - 3 hours 16 minutes 3                Mr. Harris - 41 minutes 4                Mr. Frederick - no time 5                Ms. Abudu - no time 6          I further certify that I am neither counsel for, 7          related to, nor employed by any of the parties in the 8          action in which this proceeding was taken, and further 9          that I am not financially or otherwise interested in the 10         outcome of the action. 11         WITNESS MY HAND, this the _____ day 12         of _____, A.D., 2012.</p> <p style="text-align: center;">_____ JANALYN REEVES Cert. No. 3631 Expires Dec. 12 100 Congress Suite 220 Austin, Texas 78701 (512)634-1980 Firm Registration No. 283</p>
<p style="text-align: center;">190</p> <p>1          notified by certified mail, return receipt requested, by 2          the deposition officer that the original deposition 3          transcript is available in her office for review and 4          signature by the Witness and if any corrections made are 5          attached hereto; 6          () That by agreement of counsel, a reading condensed 7          copy of the deposition transcript along with the 8          full-size original changes and Signature Sheet has been 9          sent to _____ on _____ for review and 10         signature within 30 days and if any corrections returned 11         are attached hereto; 12         () That by agreement of counsel, the deposition 13         officer is instructed to release the original deposition 14         transcript to _____ on _____, for review and 15         signature, and the deposition officer is thereafter 16         released of any further responsibility with regard to 17         the original. 18         () That the Witness shall have thirty (30) days for 19         review and signature of the original transcript and if 20         any corrections returned are attached hereto. 21         () That the signed transcript () was () was not 22         received from the Witness within 30 days. 23         () That the examination and signature of the Witness 24         is waived by the Witness and the parties; 25         That the amount of time used by each party at the</p>	